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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Fourteenth periodic reports of States parties due in 1999

Addendum

NEW ZEALAND*

[4 October 2001]

* This document contains the twelfth, thirteenth and fourteenth periodic reports of New Zealand due on 22 December 1995, 1997 and 1999 respectively, submitted in one document. For the tenth and eleventh periodic report of New Zealand, submitted in one document and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/239/Add.3 and CERD/C/SR.1106, 1107.

The information of a general nature constituting the first part of States parties' reports can be found in the core document (HRI/CORE/1/Add.33/Rev.1).

The annexes to the report submitted by the Government of New Zealand may be consulted in the secretariat's file.

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GLOSSARY OF MAORI TERMS

Hangarau	technology
Hapu	sub-tribe
Hauora	health and physical well-being
Hui	meeting
Iwi	tribe
Kaihautu	leader, representative
Kaitiaki	guardians
Kaitiakitanga	the exercise of guardianship
Kaumatua	elders
Kura kaupapa Maori	Maori language immersion school (primary, secondary)
Mahinga kai	traditional food gathering place
Mataitai	reserves
Marae	meeting house
Nga Toi	the arts
Nohoanga	camping licences/habitation
Pakeke/matua	adults/parents
Pangaru	mathematics
Pounamu	greenstone
Putaiao	science
Rangatahi	teenager
Rangatiratanga	chiefly authority
Rohe	district
Taiapure	local fisheries
Tamariki	children
Tangata whenua	indigenous people, people of the land
Taonga	treasures (tangible and intangible)
Taonga tuku iho	heritage (treasures handed down)
Te Kohanga Reo	Maori immersion language nest (pre-school)
Te Ohu Kai Moana	Treaty of Waitangi Fisheries Commission
Te Puni Kokiri	Ministry of Maori Development
Te Reo Maori	the Maori language
Te Taura Whiri i te Reo Maori	Maori Language Commission
Tikanga-a-iwi	social studies
Tikanga Maori	Maori protocols
Topuni	particularly sacred
Wahine pakari	strong, self-assured woman
Wananga	learning, seminar (whare wananga: tertiary institution)
Whanau	family

Introduction

1. This is New Zealand's twelfth, thirteenth and fourteenth consolidated periodic report to the Committee on the Elimination of Racial Discrimination. It has been prepared in accordance with the Committee's general guidelines, as revised on 19 March 1993 and 16 August 1999, incorporating also the additional guidelines for the implementation of Article 7 adopted on 17 March 1982. This report covers the period 1 August 1995 to 31 December 1999.

2. The report covers the key legislative, judicial, administrative or other measures adopted in the review period which give effect to the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination. It should be read in conjunction with New Zealand's previous reports under the Convention and with New Zealand's third periodic report under the International Covenant on Civil and Political Rights (CCPR/C/64/Add.10). The Committee may also have access to New Zealand's fourth periodic report under the International Covenant on Civil and Political Rights which was submitted in March 2001 and New Zealand's second periodic report under the International Covenant on Economic, Social and Cultural Rights which was submitted in August 2001 although at the time of writing these reports had not yet been issued as a United Nations document. Developments in Niue and Tokelau, to which the obligations accepted by New Zealand under the Convention also extend, are covered in this report.

3. The Committee's Concluding Observations (A/50/18) on New Zealand's tenth and eleventh consolidated periodic report (CERD/C/239/Add.3, referred to hereafter as the "last report") included some suggestions and recommendations. Responses are provided in the body of this report. In summary:

- Social and economic disparities between Maori and Pacific Island peoples and non-Maori (paragraph 16 of the concluding observations): While the Committee commended the New Zealand Government's policy and special programmes designed to remedy existing social and economic disparities, it also noted that these disparities continued to be a matter of concern. This report reflects the New Zealand Government's own concerns and efforts to reduce these disparities. See, inter alia, paragraphs 73-82 on employment, 83-98 on education, 104-117 on health, 118-123 on housing, 126-133 on criminal justice, 125 on social policy, and 149-154 on electoral reform;

- Immigration data collection and evaluation systems, and the provision of more comprehensive information to facilitate further public dialogue on the Government's immigration policies (para. 18): The Committee sought further information on proposed changes to the Immigration Service's data collection and evaluation systems and the provision of immigration information publicly. Paragraphs 157-162 of this report cover the present situation;

- Continued careful consideration to the concerns expressed about proposals to settle Maori grievances and land claims, including their compatibility with respect to the provisions of the Treaty of Waitangi (para. 19); and further information on the implementation of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, the

Te Ture Whenua Maori (Maori Land) Act 1993 and the Electoral Act 1993 (para. 20). Within the reporting period important developments occurred in the process of settling claims relating to historic grievances. The settlement of claims has clearly demonstrated to all New Zealanders, Maori and non-Maori alike, that although the settlement process is at times controversial and time consuming, it is working and justifies the commitment by successive Governments. Developments during the review period in regard to settlement issues are described in paragraphs 21-26 of this report. The benefits to Maori arising from the implementation of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 are covered in paragraphs 56-63. Details on the *Te Ture Whenua Maori* (Maori Land) Act 1993 and the Electoral Act 1993 are contained in paragraphs 68-71 and 150-155 respectively;

- Further measures to implement article 4 (b) of the Convention (paras. 17 and 21). The New Zealand Human Rights Act 1993 contains provisions which provide that organizations cannot lawfully promote racist aims. Paragraphs 145-146 explain the current situation; and

- Declaration under article 14 (para. 3). A review of the Government's position on this matter is in train with a view to making the Declaration.

I. GENERAL

4. Reference should be made to the core document on New Zealand (HRI/CORE/1/Add.33/Rev.1). It may be noted as of relevance that during the period covered by this report New Zealand was governed by a national Government until the general election of 1996. The coalition Government which took office in December 1996 was dissolved in December 1998. From then until the general election in November 1999 the National Party led a minority Government. Following this election, a Labour-Alliance coalition Government was formed. The very end of the review period thus saw significant policy changes beginning to be set in train. Where appropriate these are foreshadowed.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Government policy and general legal framework

5. Throughout the period under review, the New Zealand Government's firm commitment to opposing discrimination based on colour, religion, race or ethnic or national origin continued. New Zealand law specifically prohibits racial discrimination, and there continued to be a strong and active government commitment to the promotion of racial harmony.

6. Consistent with article 1, paragraph 4, of the Convention, successive New Zealand Governments have held strongly that there must be equality of social and economic opportunity in this country. Only thus can a mixed society be sustained, free of any form of racial discrimination and acknowledging diversity as a strength. Recognition of the importance to each community of their cultural values is integral to the objective of equality. It is hoped that

Government and all sectors of society will cooperate in action to achieve culturally sensitive solutions wherever the barriers associated with underprivileged or disadvantage can be linked to race or ethnic origin. A core element in all government policies is the effort to eliminate disparities suffered by any disadvantaged person and group, of whatever ethnic background.

7. Recognition has continued to grow of the importance of the relationship between Maori and non-Maori people in the broad picture of race relations in New Zealand. The special place of Maori as *tangata whenua* (indigenous people, people of the land)[1] is acknowledged. While not all answers lie within it, the Treaty of Waitangi has gained increased status as New Zealand's founding document. There is optimism that Maori grievances stemming from injustices of the past can be redressed, providing in turn encouragement of the full realization of Maori economic, social and cultural potential. The Government has made further significant progress towards addressing these grievances, though the task is by no means complete. This progress is detailed in this report.

8. The nature of biculturalism in New Zealand continues to be an important issue of debate for all New Zealanders, as does the future of New Zealand as a multicultural society. Debate on the latter has been fuelled by changes in immigration policy which have brought increasing numbers of people into New Zealand from non-traditional sources. Biculturalism and multiculturalism are not viewed as incompatible. The Government has committed resources to resolving the challenges presented by this complex situation, but it does not claim to have completed this task either.

9. This report, like New Zealand's previous reports, sets the context in which issues of elimination, prevention and remedy in respect of all forms of racial discrimination are addressed. Inter alia, it describes efforts to improve the social, economic and cultural situation of the indigenous population, including relevant developments in relation to the Treaty of Waitangi. It includes, too, comment on the situation of other ethnic groups within New Zealand society, in particular people of Pacific Islands origin.

10. The Human Rights Act 1993 provides the legal framework for the elimination of racial discrimination in New Zealand. Information about this Act is provided in this report under article 2, paragraph 1, of the Convention. Comment there also demonstrates the Government's commitment, as written into the Human Rights Act, to keep under review all its laws, policies and administrative practices in order to identify and deal with any discrimination including racial discrimination.

Ethnic characteristics of the New Zealand population

11. Paragraphs 7-13 of the core document give a statistical and qualitative description of the ethnic characteristics of the New Zealand population. Improved methodology used in the five-yearly population censuses has generated greater clarity and consistency in the picture of New Zealand's ethnic diversity. The Committee may wish to refer to a report published by the Department of Internal Affairs in 1999, "Ethnic diversity in New Zealand: a statistical profile", which provides a detailed analysis of 1996 census statistics by ethnicity. This contains information on socio-economic factors as well as statistical material. The two charts from this

report reproduced overleaf show (a) the ethnic sector in the New Zealand population and (b) the main groups in the New Zealand ethnic sector.[2] In addition, to amplify information on recent immigration patterns, a table showing permanent and long-term arrivals to New Zealand is included. Information on immigration policies is contained in the report under article 5.

Article 2

Information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 2, paragraph 1

Human Rights Act 1993

12. The Human Rights Act 1993 entered into force on 1 February 1994.[3] It replaced the Race Relations Act 1971 and the Human Rights Commission Act 1977 through consolidating them into one anti-discrimination statute. A full description is contained in New Zealand's last report, and its third report on the International Covenant on Civil and Political Rights. In summary the Human Rights Act outlaws discrimination on 13 grounds including race, colour, and ethnic or national origins. It includes a mechanism for investigating, conciliating and, if necessary, prosecuting complaints of unlawful discrimination and a range of other functions and powers which are set out in sections 5 and 6 of the Act.

13. Under the Act, the Office of the Race Relations Conciliator remains the chief organization for affirming and promoting racial equality in New Zealand. The Act extends the Race Relations Conciliator's roles by conferring on that official, by way of section 11, the right to carry out the functions listed in sections 5 and 6 of the Act. The Conciliator broadly exercises the functions and powers, and performs the duties, conferred by these sections. The Race Relations Conciliator is a Human Rights Commissioner and a member of the Human Rights Complaints Division particularly, though not solely, in respect of racial discrimination complaints. The Conciliator maintains links with, but some autonomy from, the Human Rights Commission.

14. In the reporting period two cases were taken under provisions of the Human Rights Act. One involved a complaint to the Complaints Review Tribunal under section 73 of the Act about the actions of a polytechnic in reserving places for Maori or New Zealand-resident Pacific Islanders in two of its courses. This was challenged as a breach of the Human Rights Act 1993, the Race Relations Act 1971 and the Human Rights Commission Act 1977. The Tribunal concluded that there had been breaches of all three Acts. In the second, the Race Relations Conciliator and the Human Rights Commissioner tested in the High Court the concept of indirect discrimination under section 65 of the Act, charging that a regional health authority had discriminated in favour of New Zealand trained medical practitioners over New Zealand-registered but overseas-born practitioners. The Court found the practice discriminatory, and that the regional health authority had not satisfied the Court that there were no other non-discriminatory measures which might have overcome the over-supply of general practitioners which had led to the discrimination. Amongst other citations the Convention on the Elimination of All Forms of Racial Discrimination was noted in the decision.

Figure 1

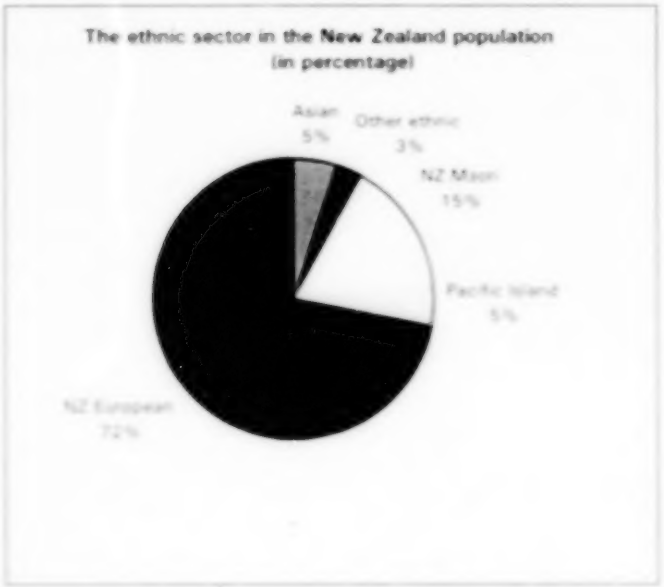

Figure 2

Table 1

Permanent and long-term arrivals*

By country of last permanent residence, year ended 31 March 1993-1997

Country	1993	1994	1995	1996	1997
Australia	12 107	12 850	12 999	12 993	12 520
Bangladesh	16	65	219	962	463
Canada	836	860	1 063	1 130	1 381
China	775	892	1 895	4 052	3 858
Cook Islands	226	271	419	524	767
Egypt	19	16	93	307	319
Fiji	1 046	1 058	1 226	1 319	1 526
France	179	264	277	259	252
Germany	475	605	821	757	784
Hong Kong	2 780	3 016	3 291	3 043	2 997
India	375	693	1 234	2 136	2 160
Indonesia	321	311	355	342	390
Iraq	8	45	134	652	445
Ireland	93	143	163	160	339
Japan	2 860	2 684	3 460	3 854	4 346
Jordan	13	54	206	644	331
Korea, Republic of	1 430	2 474	3 370	3 927	2 649
Macedonia (the former Yugoslav Republic of)	0	1	68	196	348
Malaysia	1 967	1 920	2 036	2 293	1 869
Netherlands	597	648	517	507	472
Papua New Guinea	393	363	427	444	350
Philippines	270	420	552	826	927
Russia	0	97	188	460	255
Samoa, Western	805	913	1 280	1 716	1 589
Singapore	469	636	622	742	646
South Africa	422	2 054	2 638	2 046	2 649
Sri Lanka	124	271	408	866	859
Switzerland	277	275	342	367	265
Taiwan	1 666	1 687	2 367	3 883	1 905
Thailand	486	474	791	741	633
Tonga	383	400	436	460	532
United Arab Emirates	38	96	217	197	260
United States of America	2 378	2 978	2 853	3 000	2 958
Yugoslavia	133	121	833	711	487
United Kingdom	10 947	11 931	13 328	14 726	14 575
Other	7 673	9 251	10 213	12 814	12 581
Total	49 562	57 257	67 591	80 288	76 896

Note: This table only shows permanent and long-term arrivals into New Zealand. At the same time many people also leave New Zealand on a permanent or long-term basis.

* Overseas visitors who arrive in New Zealand intending to stay for a period of 12 months or more (or permanently), plus any New Zealand citizens returning after an absence of 12 months or more.

15. The annual reports of the Race Relations Conciliator contain detailed information about the activities of the Office. Reports for the years ended 30 June 1996 through 1998 are attached as annex 3.*

New Zealand Bill of Rights Act 1990

16. For background to the development of this legislation reference should be made to New Zealand's previous reports. A full discussion of the status of the New Zealand Bill of Rights Act 1990 and relevant case law is included in New Zealand's third periodic report on the International Covenant on Civil and Political Rights.

17. Two sections of the Bill of Rights Act bear on Convention rights. Under section 19 everyone has the right to freedom from discrimination on the grounds of discrimination in the Human Rights Act 1993. This includes the right to be free from discrimination on the grounds of colour, race, ethnic or national origins, religious belief, or ethical belief. This section also provides that measures taken to assist persons or groups of persons disadvantaged because of colour, race, ethnic or national origins, sex, marital status, or religious or ethical belief do not constitute discrimination. Section 20 protects the rights of minority groups, ethnic, religious or linguistic, to enjoy the culture, to profess and practise the religion, or to use the language, of that minority.

Employment Contracts Act 1991

18. For the period of this report, an alternative avenue to section 22 of the Human Rights Act 1993 for addressing racial discrimination in the area of employment was provided in the Employment Contracts Act 1991 (ECA), under section 28. Remedies available under the personal grievance provisions of the Act were reimbursement of wages, reinstatement and compensation. All employment contracts, individual as well as collective, were obliged to contain an effective procedure for the settlement of personal grievances consistent with the provisions of the Act. In 1999 the Labour Party presaged significant change to legislation on employment relations. At the time of writing the relevant legislation is the Employment Relations Act.*

Treaty of Waitangi

19. As already noted, the shape of the relationship between Maori and non-Maori in New Zealand society centres on, though is not confined to, the Treaty of Waitangi. How this relationship develops also impacts on future race relations in New Zealand, and the nation's fulfilment of its obligations under the Convention. Debate on the treaty's modern meaning is robust. Both treaty partners, Maori and the Crown, see this debate, and the continuing impetus and evolution in the work of the Waitangi Tribunal, as key avenues for resolving grievances over past injustices to the *tangata whenua* and for opening the way for affirming a just cultural, social and economic balance benefiting New Zealand society and all its cultures as a whole. The future requires a relationship soundly based on dialogue, respect and cooperation.

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* Texts of the annex are available for consultation in the files of the secretariat.

20. Significant progress has been made on settlement work since 1989, and on the incorporation of treaty principles into New Zealand's legal system. Set out below are details of the changes that have taken place since New Zealand's last report in respect of the Crown Proposals for the Settlement of Treaty of Waitangi Claims ("the Proposals") and the Fiscal (Settlement) Envelope, in which the Committee expressed particular interest.

21. The Proposals: After the release of the Proposals in December 1994, an extensive process of consultation between Government and Maori was conducted, through *hui* (meetings). Over 1,800 written submissions were also received and these were summarized in the Government "Report of submissions: Crown Proposals for the Treaty of Waitangi Claims" (see reference section for details). As Maori declined to join with the Crown to consider the feedback from this consultative process, work was taken forward by officials' working groups, which reported to the Government in July 1996. In essence, the key government decisions at this time gave greater emphasis to settling individual historical treaty grievances and to identifying specific, practical proposals for increased Maori control over Maori affairs. The Government rejected concern that the proposals were contrary to the intent of certain Treaty of Waitangi articles, and directed that work on settlement policies continue, taking close account of the views of Maori and all those concerned with the treaty settlement process. In parallel with developing policy, the Government decided to focus on settling the historical grievances of particular claimant communities, with the draft policy used constructively as a guide. Since this decision was made, claimant groups from throughout the country have sought negotiations with the Crown and significant progress has been made (see below).

22. The Government also refined its claim settlement process. It provided for the separation from claims settlements of rentals accumulated on licensed Crown forest land; and it agreed the Crown's duty to provide redress in the settlement of historical treaty claims was to be separate from funding assistance available to claimants or their agents for the negotiating process.

23. The "Fiscal (Settlement) Envelope" was a proposal to settle all historic Treaty of Waitangi claims within a total allocation of NZS 1 billion over a period of 10 years, i.e. by about 2000. This political decision was made after careful assessment of the many demands on the Government's resources. Maori submissions on the Proposals criticized both the concept and the quantum of the envelope. In 1996 the Coalition Government responded to these concerns by abandoning the Fiscal (Settlement) Envelope. However the amended policy required future settlements to be fair and equitable between the claimant groups, and fiscally responsible. The Government also recognized that it was not practical to establish a deadline for all historical claims to be settled. For settlements to be durable the Crown must progress at the speed at which the claimant community wishes to proceed.

24. Settlements: The Government continued to make progress towards the settlement of claims, its focus being on the final settlement of all historical (pre-1992) claims of large natural groupings of tribal interests, such as *iwi* (tribe). A key objective of settlements is to resolve the grievances of the past and provide a basis for an enhanced relationship between the Crown and Maori in future. For this reason, rights arising from the Treaty of Waitangi, aboriginal title and customary rights that are not covered by the definition of historical claims are not affected by the settlement. Claimant groups generally enter negotiations following Waitangi Tribunal hearings and after mandated negotiators have been appointed by the claimant community. However,

claimant groups also have the option of entering into direct negotiations with the Crown without having had a Waitangi Tribunal hearing. Any settlement agreed between the Crown and claimant negotiators must be ratified by the claimant community through a well-publicized ballot process. Settlements only become final if a significant majority of the claimant community support them.

25. As at 31 December 1999 the Crown had continued settlements with 11 claimant groups involving financial redress of NZ$ 529 million (see table 2 below). Amongst the settlements were two of major significance. The first was the Waikato/Tainui *iwi* 1995 settlement that comprised a Crown apology, statutory instruments to recognize Tainui's special interests in particular sites and species and financial redress of NZ$ 170 million for land confiscated in the nineteenth century. The second concerned the Ngai Tahu *iwi* of the South Island. In 1996 a Heads of Agreement (agreement in principle) was reached with Ngai Tahu in settlement of their extensive historical claim covering much of the South Island. It was followed in late 1997 by a Deed of Settlement, comprising an agreed historical account, Crown apology, statutory instruments to recognize Ngai Tahu's special interests in particular sites and species, and financial redress of NZ$ 170 million. This settlement initiated the ongoing development of redress instruments to recognize particular sites or areas on Crown-owned land, and natural resources, with which *iwi* or *hapu* (sub-tribe) have a special relationship. In each of the above cases the negotiated settlement was ratified by a clear majority of the claimant community and was brought into effect through the enactment of settlement legislation by Parliament.

Table 2

Settlements since 21 September 1992

Claimant group	Year settled	Value of settlement (in NZ$)
Fisheries	1992-1993	170 000 000
Ngati Whakaue	1993-1994	5 210 000
Ngati Rangiteaorere	1993-1994	760 000
Hauai	1993-1994	715 682
Tainui Raupatu	1994-1995	170 000 000
Waimakuku	1995-1996	375 000
Rotoma	1996-1997	43 931
Te Maunga	1996-1997	129 032
Ngai Tahu	1996-1997	170 000 000
Ngati Turangitukua	1998-1999	5 000 000
Pouakani	1999-2000	7 675 000
Total settlement redress		529 908 645

26. Good progress has continued to be made in negotiations with claimant groups elsewhere throughout the country. As at the end of 1999 seven claimant groups had entered into Heads of Agreement with the Crown (see table 3 below). The Heads of Agreement included, in addition to financial redress, a Crown apology for breaches of the treaty, the transfer of Crown properties and statutory instruments to recognize the cultural associations the claimant communities have with particular sites and natural features.

Table 3

Heads of Agreement reached by 31 December 1999

Claimant group	Years heads agreed	Agreed quantum
Ngati Awa	1998-1999	42 390 000
Ngati Ruanui	1999-2000	41 000 000
Ngati Tama	1999-2000	14 500 000
Ngati Mutunga	1999-2000	14 500 000
Te Uri o Hau	1999-2000	15 250 000
Rangitaane o Manawatu	1999-2000	8 500 000
Te Atiawa	1999-2000	34 000 000

The Waitangi Tribunal

27. The tribunal has continued to play a central role in the process of settling claims for the redress of grievances under the treaty. During the period under review, the tribunal has reported on a further 15 inquiries. Several address such important issues as the status of a non-tribal urban Maori group under the Treaty of Waitangi; Maori property rights and customary authority over sacred rivers; the rights of Maori to an equitable share of radio frequencies and the Crown's treaty obligation to fund Maori tertiary education institutions in the same manner as it funds mainstream institutions.

28. The 15 inquiries that the tribunal has reported on are: The Te Maunga Railways land report 1994; the Maori electoral option report 1994; the Kiwifruit Marketing report 1995; the Ngai Tahu ancillary claims report 1995; the Te Whanganui-a-Orotu report 1995; the Turangi Township report 1995; the Taranaki report: Kaupapa Tuatahi 1995; the Muriwhenua Land report 1997; the Te Whanganui-a-Orotu report on remedies 1998; the Turangi Township remedies report 1998; the Te Ika Whenua Rivers report 1998; the Te Whanau o Waipareira report 1998; the Whanganui River report 1999; the Wananga Capital establishment report 1999; and the Radio Spectrum Management and Development final report 1999.

29. The tribunal's conclusions assist the Crown in making negotiations progress throughout the country. In 1993 the tribunal had launched the *Rangahaua Whanui* (Researching Broadly) research programme, a study of the main kinds of historical injury or grievance being expressed in the hundreds of claims before the tribunal. In May 1997 the "*Rangahaua Whanui* national overview report" (see references at back for detail) was released. Its three volumes cover (a) optional strategies for dealing with historical Treaty of Waitangi claims; (b) a study of 20 national themes; and (c) a summary of the main features of land alienation in the 15 research districts.

30. In November 1999 the Crown published a guide to Treaty of Waitangi claims and direct negotiations with the Crown entitled "Healing the past, building a future" (see references). The purpose of this book was to provide a practical guide for claimant groups to the direct negotiation and settlement of historical grievances under the Treaty of Waitangi.

31. In 1998 Parliament enacted the Treaty of Waitangi Amendment Act, to amend the criteria under which the Chairperson of the Tribunal could be appointed.

Te Puni Kokiri (Ministry of Maori Development)

32. The restructuring of the Maori Affairs portfolio and the establishment of Te Puni Kokiri (the Ministry of Maori Development) in 1991 was discussed in New Zealand's last report. The major policy change of "mainstreaming" was also described. This remained a key strategy through the period under review.

33. Under "mainstreaming", programmes that had been administered by a single agency (the *Iwi* Transition Agency) were moved over to the core Government agencies providing specific sector outputs. Put simply, this policy aims to eliminate disparities between Maori and the general population by improving Maori access to, and the services provided by, all government agencies, rather than attempting to meet the needs of Maori primarily from within a single agency. Mainstream agencies host programmes but also have scope to enter into arrangements with *iwi*, in cases where it has been determined that *iwi* are a more appropriate and effective channel for the delivery of services to Maori. The involvement of Maori in services for Maori is, indeed, a key theme of this report.

34. Te Puni Kokiri is the specialist agency that is principal adviser on the Crown's relationship with Maori and on key government policies as they affect Maori. Its objectives are to assist in the achievement of fair and durable settlements to historical Maori grievances under the Treaty of Waitangi and in the development of policies aimed at equity between Maori and non-Maori social and economic outcomes. It promotes increases in Maori achievement levels in all sectors. It monitors the adequacy of services provided to Maori by other departments and provides the Government and State sector agencies with strategic advice on improving Maori outcomes. It facilitates communication between the Crown and Maori, and provides the Government with early notice of local issues that are likely to impact on the Crown/Maori relationship.

Maori Development Commissions

35. The Coalition Agreement adopted by the two parties which formed the Government following the 1996 general election provided for the establishment of four Maori Development Commissions to develop policies and processes to close the economic and social gaps between Maori and non-Maori. These think-tanks were tasked to work on initiatives for accelerating Maori development in education, health, economic development, employment and training, suitable for grafting onto mainstream programmes. The Commissions are also a further source of contestable advice on Maori development issues. Two of the commissions, health and education, were established in July 1997. The economic development, and also the employment training commissions were established in February 1998.

36. Initiatives based on the work and recommendations of the four commissions were funded in the 1999 budget and included programmes grafted onto mainstream agencies or onto Te Puni Kokiri, thus lying within the consideration of the appropriate expenditure minister. Help for Maori mothers and their children, integrated health and dental care for Maori

children and a two-year project in Maori mental health service development are three examples of such initiatives falling under Vote: Health. Programmes under Vote: Education are a NZ$ 6.5 million commitment over three years for Maori education resources and a NZ$ 12.7 million campaign over three years to lift education outcomes for Maori. Under the Vote: Maori Affairs is a NZ$ 8.2 million commitment over three years to encourage the productive use of Maori land and to stimulate the creation of new Maori businesses, and a new Maori industry-based training programme to be piloted over the following two years.

Maori Land Court

37. The Maori Land Court is one of New Zealand's oldest and most important legal institutions. The Court and its administration have a close relationship with Maori, particularly in relation to land issues. The Court is a forum in which disputes and issues among Maori landowners can be settled. The wishes of Maori landowners can be ascertained and given effect to, Maori landowners can be kept informed of and can discuss proposals relating to their land, and practical solutions to problems arising in the use or management of Maori land can be promoted. The Maori Land Court administration reflects the importance of Maori land information which, like the land itself, is a *taonga* (treasure) of Maori people to be kept safe. The Maori Land Court provides essential services to both the Government and the *tangata whenua* through its land titles registry (Maori land title and ownership records); a commercial affairs registry (Maori incorporation and trust administration); a court registry (concerned with judicial support and case processing); and an extensive archive of genealogical and historical information of particular importance to Maori.

38. Earlier systems of keeping Maori land records carried risks such as vulnerability to loss, damage, or destruction. Therefore a high priority has been given to achieving a high standard of archival practice, including the use of information technology to preserve and maintain Maori land records, past and future. This will increase the availability of Maori land records information in order to contribute effectively to the Treaty claim process.

39. The Maori Land Court administers *Te Ture Whenua* Maori Act 1993. (See paragraphs 67 et seq.)

Other racial groupings

40. Consistent with New Zealand's commitment to meeting its obligations under article 1, paragraph 4 of the Convention, close attention is also paid to those in other communities whose full participation in civil society may be inhibited by social and economic disadvantage. Where programmes for people in minority populations are necessary to eliminate disparities, the Government remains committed to working on culturally appropriate solutions, to building on the strengths and diversities of the people concerned, and to fostering their ownership of assistance programmes.

The Ministry of Pacific Island Affairs

41. Previous reports included information on the establishment of the Ministry of Pacific Island Affairs and its subsequent structural changes. Further changes took place in the

period under review, to sharpen the attainment of the Ministry's goals. Its role remains to work for the removal of disparities between Pacific peoples and the population at large, particularly in the areas of education, health, housing, social justice and economic affairs. It monitors the impact of government policies on Pacific peoples, and promotes recognition of Pacific Island cultural values and aspirations. The changes were also designed to strengthen the Ministry's role as the principal policy adviser to Government on Pacific people resident in New Zealand.

42. The Ministry's role in providing services alongside other mainstream agencies was reviewed in 1995, while the government resources applied to Pacific people were reviewed in 1997. As a result, the Ministry has, in stages, integrated its policy and operational arms, and realigned its organization and management. It identified its priority functions as including the provision of policy advice, communications and information dissemination, advice on mainstream services, and programme design and piloting. Its operational activities were reduced, but became more targeted. It directed more attention to finding ways to make the State sector more responsive to the needs of Pacific communities. The Ministry's relationship with the Pacific Island Business Development Trust (located in the Department of Labour) became more focused on collaborative approaches in the area of economic and business development. The Minister's Advisory Council[5] continued to be the vehicle for communication with the community.

43. The Ministry has signed protocols with the Ministries or Departments of Health, Education, Maori Development, Labour, and the Crime Prevention Unit of the Department of Prime Minister and Cabinet. These are areas critical for improving outcomes for Pacific people. The protocols provide the framework for regular consultation and strategy planning. They also enable the Ministry to assist these other State agencies to incorporate Pacific perspectives into their policies.

Restructuring of the Ethnic Affairs Service

44. Information on the establishment of the Ethnic Affairs Service was included in New Zealand's last report. According to the census held during the review period (1996) ethnic groups in New Zealand numbered over 50, and comprised approximately 8 per cent of the ethnic minority population excluding Pacific people and Maori. These are the groups for whom the Ethnic Affairs Service was designed as the channel for two-way communication between the Government and the ethnic community groups.

45. The Department of Internal Affairs was restructured in 1997. The Ethnic Affairs Service was disbanded and its functions incorporated in a new Constitution, Heritage, Ethnic Affairs and Identity Policy Group within the Department. In addition the Department's Community Development Group also provides ongoing contact, support and provision of information and assistance to ethnic communities and other key agencies. It assisted, for example, with planning and organizing the Fifth World Indigenous Youth Conference on a Maori *marae* (meeting house) in September 1998.

46. During the period 1997-1999, the Policy Group provided advice and information about ethnic affairs issues to Government and to ethnic community groups. The quarterly newsletter continued, with increased circulation, and a calendar identifying cultural dates to celebrate has

been published annually since 1995. The publication "High Hopes: a survey of qualifications training and employment issues for immigrants in New Zealand" (1996) provided a series of case studies on topics relevant to new ethnic immigrants. The Service also published the "Ethnic Diversity in New Zealand: a Statistical Profile" referred to in paragraph 11 of this report. In 1996 responsibility for the ethnic communities directory referred to in the last report passed to the Race Relations Office and the Immigration Service of the Department of Labour.

Information on the special and concrete measures taken in the social, economic, cultural and other fields to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of fundamental freedoms, in accordance with article 2, paragraph 2, of the Convention

47. The legal and structural foundations laid for the conduct of ethnic relationships in New Zealand have been described above. The years since New Zealand's last report have seen the continued onflow from the major economic and social changes that took place in consequence of the overhaul and modernization of the economy in the late 1980s and early 1990s. The restructuring of the welfare state, itself part of the reform process, put new pressures on the most vulnerable. Recognizing this, the Government committed itself to maintain services and support for the most vulnerable groups in society. "Mainstreaming", described elsewhere in this report, became the vehicle for targeting and improving service delivery.

48. The following sections deal extensively with Maori development issues, including in respect of relevant legislation. This is appropriate, given the special place of Maori in New Zealand society as *tangata whenua*, or indigenous people. It is also appropriate in that despite gradual improvements in the position of Maori in some areas of the nation's economic and social life, disparities continued to be reflected in statistics on educational achievement, employment and income levels, health, crime and State dependency.

49. Information is also given on measures to improve the situation of people in other ethnic groups in New Zealand.

Maori economic and social development

50. The settlement of claims made under the Treaty of Waitangi Act 1975 remained a major focus of government policies for Maori. These are described in other sections of this report, as is the policy of "mainstreaming" of services to Maori. Economic development is a key to Maori social and cultural progress. The philosophy underlying government economic and social policies generally during the review period was its belief in the importance of encouraging self-sufficiency. In respect of its Maori policy, building up the economic resource base of Maoridom through treaty settlements was an important part of this objective.

The Resource Management Act 1991

51. The Resource Management Act 1991 (RMA) is the principal statute regulating environmental management in New Zealand. The last report gave a full description of this Act.

As noted there, the RMA has particular significance for Maori by virtue of its clauses recognizing concepts of indigenous culture, traditions and rights, and its requirement that decisions on the sustainable management of natural and physical resources take account of the principles of the Treaty of Waitangi. The requirement to consult Maori on environmental and resource management now meets with greater non-Maori acceptance, but with some concerns about the additional costs thus incurred. One amendment to the RMA during the reporting period that was very relevant to Maori concerns was a change to the definition of *kaitiakitanga* (exercise of guardianship) to clarify that *kaitiakitanga* is exercised by the *tangata whenua* of an area.

52. Maori interest in environmental planning and management continued through the review period. Maori concerns were also reflected during the reporting period in claims to the Waitangi Tribunal and in actions in the Environment Court. Treaty of Waitangi claims relating to the implementation of the RMA focused on the lack of opportunity for Maori to be significantly involved in the management of water resources. The tribunal recommended significant changes to the RMA and to how Maori should be involved in water management. Both through the settlement of treaty claims and through the Ministry for the Environment work programme, the Crown began to address these concerns.

53. Both the Ministry for the Environment and the Department of Conservation maintain programmes to promote Maori interests. The Ministry for the Environment is required to monitor the implementation of the RMA. In doing so it undertook surveys of implementation, supplied guidance, and provided funding to Maori groups for environmental management initiatives. In 1998 a report on the interactions between local government and Maori organizations, "*He Tohu Whakamarama*" (annex 1)* was published based on a survey of such interaction when following RMA processes. This survey highlighted a number of problems associated with the Act's implementation, such as the capacity of *iwi* to participate in RMA processes, the capacity of local authorities to meet their obligations to Maori, and a lack of clarity over the meaning of certain provisions of the Act. The Ministry for the Environment then initiated a programme to increase Maori capacity to take a greater role in environmental management. It included a number of funded projects. One of these developed a Ngati Porou (North Island, East Coast *iwi*) environmental management plan. Another produced a booklet, video and training workshop to introduce and explain the RMA to Maori.

54. A RMA Amendment Bill introduced into Parliament in July 1999 caused some Maori concern, particularly concerning proposed changes to the definition of "the environment" and to certain processes. The bill has also proposed amendments to make it easier to transfer management functions to Maori organizations and to increase the level of importance given to *iwi* management plans. The bill has been through the Select Committee process and is awaiting consideration by Parliament as a whole.

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* Text of the archives may be consulted in the files of the secretariat.

The Treaty of Waitangi (Fisheries Claims) Settlement Act 1992

55. Following the comprehensive settlement of Maori fisheries claims against the Crown in 1992, and the passing of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, Maori have become the biggest player in New Zealand's commercial fishing industry, controlling well over half of all commercial fishing quota.

56. Te Ohu Kai Moana (Treaty of Waitangi Fisheries Commission - referred to as the Commission hereafter) was set up under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, replacing the Maori Fisheries Commission. It is tasked to hold, manage and develop the commercial fisheries assets allocated to Maori by the Crown in the settlement. It is also required to arrange for their eventual distribution, and to be more accountable to Maori. Its establishment marked an important phase in the formal recognition of Maori fishing rights by the Crown as well as in providing ongoing access by Maori to the New Zealand commercial fishery. Between the 1992 settlement and the end of the reporting period the asset base increased from around NZ$ 180 million to approximately NZ$ 650 million. At that point the Commission held more than 30 per cent of all New Zealand commercial fishing quota, making it the single largest player in the New Zealand fishing industry.

57. The Commission's principal task under the Act is to assist Maori to enter and develop "the business and activity of fishing". It has put in place a NZ$ 5 million training and development strategy aimed at ensuring Maori have the skills to match their fisheries assets. The strategy includes a scholarship programme for entry to courses both at home and overseas, and an *iwi* management course designed to provide Maori with the necessary business management skills to reach the highest levels of fisheries operation.

58. In its role as manager ad interim of the commercial assets arising from the settlement, on behalf of *iwi* Maori, the Commission operates an annual leasing process for making quota available to *iwi*. A discount lease scheme has been effective in assisting Maori to enter, or further develop, fishing operations.

59. Work has continued on the Commission's task of developing a method to allocate the assets it holds to Maori *iwi* in accordance with the provisions of the Act and the Deed of Settlement. The assets fall broadly into pre-settlement assets (prior to 1992) and post-settlement assets (acquired as a result of the Deed of Settlement and the Sealord purchase). During the review period the Commission, in conjunction with *iwi*, has been engaged in developing a scheme for allocation of pre-settlement assets. The decision-making process before allocation can begin is complex, involving both *iwi* endorsement and approval by the minister responsible for fisheries, who must be satisfied as to its consistency with the Act and Deed of Settlement. A scheme for distribution of post-settlement assets will follow the development of a pre-settlement asset allocation model and will be set out in a new Maori Fisheries Bill to be developed by the Commission in consultation with *iwi*.

60. The process through the review period has been delayed by litigation concerning both allocation issues and the role of the Commission. A key question has been one of interpretation: whether Maori who do not live in their tribal area and/or have not maintained their *iwi* (tribal) links qualify for access to the benefits of settlement. This litigation is continuing.

61. In other litigation, the Commission issued High Court proceedings against the Minister of Fisheries in 1996 in relation to the management of the Foveaux Strait Oyster fishery. It was alleged that in lifting a fishery suspension[6] in that fishery without making provision for the involvement of Maori in the fishery, the Minister had breached the Deed of Settlement. This case was ultimately settled out of court in February 1997. It was agreed that from 1 June 1997 the fishery would be managed by way of Individual Transferable Quotas; and that from 1 June 1998 the fishery would be administered under the Quota Management System with 20 per cent of the quota being allocated to Maori.

62. At the same time as settling the substantive matter, the Crown reaffirmed its commitment to the Deed of Settlement and to the policy of introducing all species into the Quota Management System (QMS) in the shortest possible time frame. Nine new species were introduced into the QMS on 1 October 1998. The Commission was allocated 20 per cent of the total allowable commercial catch of all those species and will be allocated the same percentage for any other new species introduced into the QMS. A local initiative between commercial and Maori customary interests for managing the South Island eel fishery is set to facilitate the introduction of this species into the QMS.

Fisheries Act 1996

63. The Fisheries Act 1996 recognizes *tangata whenua* as one of the key stakeholder groups in New Zealand's fisheries, and provides for their input and participation in fisheries management decision-making processes. Implementation of the provisions of the Act must be fully consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. The annual process for setting sustainable measures includes extensive consultation throughout the country in which *tangata whenua* are involved.

64. The Act permits the development of *taiapure* (local fisheries). The aim is to make better provision for *rangatiratanga* (chiefly authority) in relation to those areas of New Zealand fisheries waters which have customarily been of special significance to *iwi* or *hapu* either as a food source or for spiritual or cultural reasons. The Minister appoints *taiapure* committees to manage the fishery and these may make recommendations to the Minister for regulations to be made to manage the area in accordance with the purpose of the *taiapure*.

65. Under the provisions of the Act regulations can be made that recognize and provide for customary food gathering by Maori. Regulations have been made that recognize and provide for the special relationship between *tangata whenua* and places of importance for customary food gathering (to the extent that such gathering is neither commercial nor for pecuniary gain or trade). In the South Island the Ngai Tahu settlement (see paragraphs 25 and 71) enabled the early introduction of regulations developed under the 1996 Act. The Fisheries (South Island Customary Fishing) Regulations 1999 and the Fisheries (*Kaimoana* Customary Fishing) Regulations 1998 provide for all *tangata whenua* to establish self-management regimes for customary fishing in New Zealand waters. Under these regulations *kaitiaki* (guardians) can be nominated by *tangata whenua* to manage the authorization of customary fishing in the area of their jurisdiction. They can also nominate *mataitai* (reserves), in which no commercial fishing can occur and in which the *kaitiaki* is responsible for managing the area sustainably and in accordance with local custom.

66. A further provision under the Act is that the Minister may take temporary actions such as closure of an area, or restriction or prohibition of a fishing method in an area, and the reasons may include providing for the use and management practices of *tangata whenua* in the exercise of their non-commercial fishing rights.

Te Ture Whenua Maori Act 1993 (The Act)

67. The Te Ture Whenua Maori Act 1993 was described in New Zealand's last report. The Act is based on the Treaty of Waitangi and recognizes that Maori land is a *taonga tuku iho* (heritage) of special significance to Maori people. The overriding principle of the Act, therefore, is to make sure that the owners of Maori land, and their *hapu* and *whanau* (family), keep the land so it is passed on to future generations. Other principles on which the Act is based include the facilitation of the occupation, development and utilization of Maori land for the benefit of its owners (and their *whanau* and *hapu*), the maintenance of a Maori Land Court and the establishment of mechanisms to assist the Maori people to implement the principles of the Act.

68. The Maori Land Court must act in a manner which best furthers these principles. In practice this means that the Court has had to balance the principle of retention with the principles of occupation, development and utilization. The Courts have reaffirmed that the overriding principle is retention. This has often created some tension when owners desire to develop the land but in doing so risk the land being lost. Thus, while many Maori are happy with and are making use of the retention provisions within the Act, many other Maori feel frustrated in their endeavours to use, occupy and develop the land.

69. Against this background, a review of the Act was announced in May 1998. Its key objective was to identify how to make the Act more useful and effective, in particular to make it easier to retain, occupy, develop and use Maori land. The terms of reference required an assessment of how successful the Act had been in promoting the principles, and thence consideration of remedies that would allow the principles of development/utilization and retention to coexist in a complementary fashion. Consultation involved extensive input from, and the participation of, Maori throughout New Zealand.

70. A bill to amend the Act was introduced into Parliament in October 1999, with April the following year being set as closing date for submissions. Proposed amendments address many major issues which were raised in the consultative process, such as (to name but a few) simplifying and clarifying complex rules and procedures, particularly those relating to alienation of Maori land, allowing the Maori Land Court to order reasonable access to landlocked land without requiring the consent of adjoining land owners, and defining better the provisions for mandating how Maori groups are to be represented in proceedings. The guiding principle underlying the amendments, however, is that where the risk of loss of Maori land is greatest, so is the Court's supervisory role. For instance, where there is a proposal to sell or gift land (meaning the complete loss of the land), the proposal must be confirmed by the Court.

Ngai Tahu Settlement Act 1998

71. After six years of negotiation on the Waitangi Tribunal's 1991 report on the issue, the Ngai Tahu claim was settled with the enactment of the Ngai Tahu Settlement Act 1998. As

noted elsewhere in this report, the Act established key legislative precedents with regard to recognizing the economic, cultural and spiritual aspirations of Maori. The package recognized Ngai Tahu's traditional possession of *pounamu* (greenstone). It restored Ngai Tahu's access to *mahinga kai* (traditional food gathering places), and protected Ngai Tahu's historical, cultural and spiritual links to specific places and sites throughout its *rohe* (district). New measures included statutory acknowledgment of Ngai Tahu's special association with a site, *topuni* (particularly sacred) areas that create an obligation to consult Ngai Tahu on activities within them, *nohoanga* (camping licences) for traditional fishing places, and the transfer of ownership of certain islands, lakes and reserves. The Ngai Tahu (Pounamu Vesting) Act 1998, which transferred ownership of Crown-owned *pounamu* within the *rohe* to Ngai Tahu, derives from the provisions in the Ngai Tahu Settlement Agreement.

Maori commercial forestry

72. While not providing explicitly and solely for Maori, government-funded projects have been set in train which have the potential for economic and employment benefit to Maori landowners. The East Coast Forestry project, which promotes commercial forestry to control soil erosion in the region, resulted in 25,854 hectares of plantings up to 2000. Maori multiple-owned land accounted for 33 per cent of the approved area, and an *iwi*-based company obtained government funding for 70 per cent of proposals within the project. The Government also reviewed in 1997 the future of 52,000 hectares of commercial forests planted by the Crown in the 1960s and 1970s on land leased from Maori owners and agreed to negotiate the sale or transfer of the forests to Maori on a commercial basis. By the end of 1999 the Crown's interest in two of these leases had been sold to the Maori lessors, and the term of one other lease shortened to one crop rotation with the replanted land being returned to Maori control.

Employment

73. The 1996 population census indicated that the unemployment rate for New Zealand Europeans was 5.2 per cent, and that the overall unemployment rate was 7.7 per cent. According to the census data, unemployment rates were highest amongst the Asian and Middle Eastern communities.

74. The household labour force survey for the September quarter 1995 indicated that 15.2 per cent of the Maori labour force and 14.1 per cent of the Pacific Island labour force in New Zealand were unemployed compared with 5.9 per cent of the labour force as a whole. By the September quarter of 1999 the Maori unemployment rate was 14.8 per cent and the Pacific peoples' unemployment rate was 15 per cent, while the overall unemployment rate was 6.6 per cent.

75. The sets of figures above are snapshots at particular moments in time. For Maori and Pacific people they are better than they were at the time of New Zealand's last report, where they related to a period of economic restructuring. Nevertheless, for a range of reasons, people of non-European ethnicity may still suffer disadvantage in the area of employment, as may some groups of newer immigrants from non-traditional source countries. For the latter, for example,

there may be problems in gaining recognition of professional skills and qualifications from. A number, especially those in unskilled jobs, may face unsatisfactory working conditions. Some may find it difficult to obtain information about taxation, benefits and related matters.

76. Until late 1998 assistance continued to target priority groups through the Department of Labour. The Department's New Zealand Employment Service interfaced with the long-term unemployed, Maori, Pacific, new migrant, young and women job-seekers; while its Community Employment Group worked with Pacific, Maori, women, rural and urban isolated communities. These functions along with Income Support and Local Employment Coordination were integrated into a new Department of Work and Income (DWI) in late 1998. The core function of the Department is to assist people into employment and/or training, and to pay social security benefits and pensions.

77. In its concluding observations on New Zealand's last report the Committee took note (para. 10) of New Zealand's oral report on the establishment of the Prime Ministerial Task Force on Employment in 1994. The task force was instructed to identify employment issues and undertake a comprehensive nationwide consultation process with proposals for action.

78. In June 1995 the Multi-Party Group (which comprised three political parties: National, Labour and Alliance) responded to the task force with a memorandum of understanding on the way forward. "Focus on Employment", the Government's final response to those reports, implemented several new initiatives to improve employment opportunities for all New Zealanders, particularly those disadvantaged in the labour market. Key elements were those designed to provide intensive personal help to 16 to 20 year olds unemployed for 13 weeks or more, as part of a strategy to ensure everyone in this group was in education, training or work; and those to help all people unemployed for two or more years to find work through the Job Action Programme. Other measures included major changes to the benefit abatement system in order substantially to improve the rewards for those on particular benefits wishing to work part time; and improved coordination of employment assistance at the local level.

79. The programmes were also designed to ensure that employment policy as a whole responded to the needs of Maori and Pacific people. A Maori Labour Market Strategy was put in place to combine special programmes specifically for Maori with the general proposals, producing a comprehensive strategy to address Maori labour market disadvantage. Likewise, *Vaka Ou*, the Pacific Islands Labour Market Strategy, was intended to address comprehensively labour market disadvantage among the Pacific Island community through a range of employment and education initiatives.

80. Examples of programmes under the Maori Labour Market Strategy are:

- A job action programme which incorporated contracting out some workshops to Maori providers to improve the content and delivery of the programme to long-term Maori job-seekers;

- A Maori Youth Programme targeting Maori job-seekers aged 16-24 years in the areas of self-esteem, self-management skills, work habits and the ability to identify

appropriate career and training options before being referred to further activities. (Evaluation of a pilot programme found this successful and the programme continued.);

– A pilot programme designed to allow Maori communities access to Job Plus wage subsidies for temporary work by Maori groups related to projects involving economic or other development of Maori-owned assets;

– Programmes for women, such as *Wahine Pakari* (strong women), a business skills training programme for Maori women targeted at improving their employment opportunities and prospects by increasing their participation in self employment, business, other employment, or education and training and *Wahine Ahuru* Turning Point, designed especially for Maori women returning to the labour market; and

– *Tane Atawhai*, a seminar designed to assist Maori men who had been out of the workforce for some time.

81. The Pacific Island Labour Market Strategy initiatives included the appointment in 1996 of a Pacific Islands Employment Coordinator, based in the area of New Zealand (South Auckland) with the largest Pacific Island population. The Coordinator's task is to improve the coordination and responsiveness of Employment Service programmes and services to Pacific Island job-seekers. The Coordinator is assisted in South Auckland by a Local Employment Coordination Group. *Tama Tane* was another initiative. This is a five-day job information seminar designed to assist Pacific Island men over the age of 35, a group which suffers qualification and language disadvantage, to return to the workforce. The Government also assists potential Pacific Island providers of employment to meet the standards needed to tender for contracts with the New Zealand Employment Service. The Government has taken over the funding of *Anau Ako Pasifika*, a successful parent support programme.

82. To address some of the problems referred to in paragraph 75 above, the Employment Service in 1996 paid for English as a Second or Other Language (ESOL) training for 500 long-term unemployed people. This programme was intended to help recent migrants, generally from non-traditional sources, who had good qualifications and experience but whose poor English language skills severely hampered their employment prospects.

Education

83. Eliminating differences in educational achievement amongst the groups that make up the New Zealand community is a key to eliminating racially-based social and economic disparities, and to giving people a stake in their future. The unequal achievement of Maori compared with non-Maori remains of concern, being both part of, and contributing to, a complex cycle of disadvantage. The challenges are considerable and the answers not wholly within the education system.

84. Over past years successive New Zealand Governments have addressed problem areas in all sectors of education in light of their respective policies, including those noted by the Committee in its concluding observations (para. 8) on the last report.

85. Statistics continue to show a difference in participation and achievement between Maori and non-Maori in early childhood education, compulsory education and the tertiary sectors. Maori are under-represented (per head of population) in early childhood education participation and in the percentage of children who remain at school after the age of 16. They are also less likely to sit school examinations than non-Maori. At tertiary level the percentage of Maori students has risen from 11.9 per cent in 1997 to 13.4 per cent in 1999. But Maori are overrepresented in lower level courses (e.g. diplomas) and in drop-out statistics - only 58 per-cent of Maori students who began tertiary study in 1999 remained at the same tertiary institution compared with 75 per cent of non-Maori students.

86. A strategic Government approach to Maori education is vital to improve Maori educational achievement. In 1997 the Government directed the Ministry of Education and Te Puni Kokiri (Ministry of Maori Development) to consult with Maori and prepare an education strategy for Maori, with the aims of making existing education provisions more effective for Maori, making the system more sensitive to the learning ways of Maori, and involving more Maori parents in their children's education. A report on these public consultations, "Making Education Work for Maori" (annex 2),* was released in 1998, leading to further shaping of policy towards achieving the above aims. At the end of the review period the Government just elected foreshadowed a further shift of strategic direction, based on the three principles of increasing Maori *iwi*, *hapu*, *whanau* and community authority in involvement in education; lifting the responsiveness of the education system to Maori; and supporting the demand for Maori language education.[7] The last is inclusive of the first two without limiting Maori involvement in mainstream education that is provided in English.

87. Community involvement in decision-making is a vital component of the Government's strategies for Maori education, and plays a key role in the future education of young Maori. Better home, school and community relationships will help improve the success and achievements of Maori at all levels. An important initiative in this area was set in train in 1999, with the planning of the Whakaaro Matauranga project. One strand of this project was to be an information strategy targeting *iwi*, *hapu* and *whanau* to build community understanding about the education system and how it can be accessed for the benefit of their children. The second strand will entail appointing a liaison team to act as an information conduit between the Ministry of Education and education providers and the community in order to raise Maori participation and achievement.

88. Planning from the period of the change of Government also set in train the designing of other projects to assist the community, such as the development of guidelines entitled "Better relationships for better learning" aiming to facilitate better engagement and consultation between schools and Maori communities; and the "Social workers in schools" programmes supporting both families and schools in the community. Planned *whanau*-focused projects included "Strengthening of families", focusing on improving coordination between health, education and social agencies, and "Parents as first teachers", an early childhood education project involving home visits at supporting parents to develop their 0-3-year-old child's learning.

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* Text of the annex can be consulted in the files of the secretariat.

89. Engagement at *iwi* and pan-Maori level was also a priority for the new Government at the end of 1999. Formal "*iwi* partnerships" between the Ministry of Education and tribal and pan-Maori groups were in the planning stage to enable Maori to influence the provision of education more directly, and to improve school performance and Maori educational outcomes. It was recognized, for example, that despite efforts to teach the Maori language in schools, *te reo Maori* (Maori language) is unlikely to flourish unless it is spoken in the community. The end of the reporting period saw the Ministry and *iwi* working together to support the teaching and learning of Maori language at the community level.

90. The National Curriculum Framework, outlined in the last report, also extended its Maori dimension. The framework sets out achievement objectives for students at various levels and applies equally to Maori and non-Maori mainstream students, and to students learning principally in the Maori language medium. At the end of the reporting period five Maori-medium versions had been published of the seven essential learning areas: *te reo Maori* (Maori language), *pangarau* (mathematics), *putaiao* (science), *tikanga-a-iwi* (social studies) and *hangarau* (technology); while two others, *nga toi* (the arts) and *hauora* (health and physical well-being, recognizing the Maori philosophy of health) were shortly afterwards developed from a Maori paradigm unlike some of the earlier statements which had basically been a translation of the English language curriculum statements.[8]

91. Improving access to resources is key to improving the achievements of all students, a goal to which the Government is committed. During the review period, schools in communities of greatest socio-economic disadvantage had higher levels of expenditure on learning and teaching resources per student than other schools. At the tertiary level, full-time students undertaking courses of 12 weeks or more from low-income families qualify for student allowance assistance. In 1999, 6,400 (3 per cent) of Maori students received this help; 21,866 Maori students (58.2 per cent) also took advantage of a loan scheme for tertiary students to cover fees and living expenses. As part of its effort to increase Maori progression to further training, Maori tertiary trends are monitored and the Government encourages tertiary institutions to report separately their annual outcome for Maori participation and achievement.

92. For its part, the Ministry of Education provides resources to support research into factors associated with Maori educational performance. It acknowledges, too, that educators and policy makers alike must be equipped to recognize and understand bicultural and multicultural perspectives in the work they do and in the broader community. In respect of educators the Ministry places priority on professional development and increasing the supply of quality educators fluent in *te reo Maori*, increasing the quantity of Maori-language learning materials and the quality of training programmes. In October 1998 the Government released the document "Interactive education: an information and communication technologies (ICT) strategy for schools". One result of this report was the adoption during the review period of a policy on developing on-line teaching resources and the beginning of its implementation.[9] In regard to policy makers, professional development for education officials is given at all levels and in all branches of the Ministry of Education to ensure understanding of and respect for bicultural perspectives. Promotion of *te reo* learning among staff, support for Maori staff to improve their qualifications, and a requirement for policy managers to consult with the Maori Group during policy development are among measures implemented.

93. Supporting the demand for Maori-language education, the third of the principles outlined in paragraph 86 above, is founded in Maori belief that the revitalization of their language is crucial to lifting the educational performance of Maori children. The Government has continued to support Maori in this. At the pre-school stage only 42.8 per cent of Maori children attend any form of early childhood education. Of those children, over 36 per cent attend *kohanga reo* (Maori immersion language nests) making this the most popular choice for Maori children aged 1-4 years. Maori comprised 20 per cent of the compulsory schooling student population (144,738 of a total number of 727,396 students) in 1999. Some 28,000 of these Maori students are involved in some form of Maori immersion education, with approximately 10,000 in full immersion. Interest in *wananga*, or Maori medium-tertiary education facilities, also increased. Three *wananga* were operating as fully-fledged tertiary institutions with Maori student numbers having risen from about 550 students in 1997 to nearly 2,600 students at the end of the reporting period. In all approximately 20 per cent of Maori students were participating in Maori-medium education at one level or another. To strengthen Maori-language initiatives, new or increased funding was provided for Maori-language resources as well as for *kohanga reo* and *kura kaupapa Maori* (Maori-medium schools), for high-level Maori-medium immersion programmes, and for Maori-language in-service professional development for teachers.

Pacific education

94. The obstacles to Maori achievement within the education system have similarly affected many Pacific people. These communities, nearly half of whom are under 20 years of age, and two thirds of whom live in the Auckland area, are an integral part of both the country's total population and the school population. Between 1991 and 1996 according to the censuses of those two years, the numbers of Pacific Island children in pre-school education rose rapidly. At the primary and secondary school levels, enrolments matched demographically the enrolments from other ethnic groups. However the performance of Pacific Island students at senior school level is significantly lower than that of other students and Pacific Islands students often leave school with lesser qualifications than those of other students. They, too, can overcome social and economic barriers through full participation in the education system, and the acquisition of a level of employable skills, as well as through the nurturing of their language and culture.

95. In 1996 the Ministry of Education launched *Ko e Ako 'a e Kakai Pasifika*, a plan for Pacific education from early childhood through to tertiary education, bringing together for the first time all work on Pacific education. In 1998, the Ministry reported against the implementation of the plan and in 1999 began a review to see if the plan was still appropriate for Pacific peoples. As in Maori education, the change of Government late in the reporting period resulted in a revision of the strategic direction of this review.[10] The Government's goals and targets in respect of education for Pacific children are aimed at reducing disparities and improving the well-being of Pacific peoples in the New Zealand education system and working towards ensuring that Pacific children grow up with the same opportunities in education as all other New Zealand children. Substantial progress relating to education for Pacific children will be reported in the next review period.

Other groups

96. Among learners who make up a significant group at risk of not using the educational opportunities available are those from non-English-speaking backgrounds (NESB) who have poor English competence. Since 1989, the Ministry of Education has been gathering information about NESB students in order to clarify the need for special English-language programmes for those within the education system. Of the 63,500 NESB students in 1996, over 75 per cent were living in Auckland. Around 14,900 of all NESB students, or one quarter of the total, did not need any additional support in English language beyond what the regular teacher was able to provide. This included 8,400 NESB primary school children.

97. To meet the English-language learning needs of NESB students, the Ministry of Education has discretion to allocate supplementary funds to schools over and above the per pupil funding base. It targets this discretionary resource for the teaching of English as a Second or Other Language (ESOL) to students with the greatest learning needs in basic oral or reading and writing instruction in English. Progressive funding increases are to apply over the next few years, accompanied by a number of policy changes to ensure more effective targeting. Other resources are also available for special needs students, some of which are drawn on by schools to assist NESB students. Teachers of NESB students also have access to resources from Learning Media, the Pacific Island Education Resource Centre and the Wellington Multi-Cultural Education Resource Centre. New settler and multicultural coordinators attached to each of the Colleges of Education (teacher training colleges) work with teachers and community groups.

98. The impact of all policy initiatives is closely monitored by the Ministry of Education to determine the potential and real impact on minority groups. Research, evaluation and statistical monitoring are activities designed to ensure the elimination of racial discrimination.

Language

99. New Zealand policies are taking more account of language issues. This is a consequence of the renaissance of the Maori language; the languages that new migrants from non-English-speaking backgrounds have brought to the society in recent years; and the desire to maintain ethnic community languages. The obstacles to educational achievement posed by language difficulties have been discussed in preceding paragraphs, as have measures taken to address the difficulties faced by new settlers in New Zealand society, many of which can be traced to problems with English.

100. The Government acknowledges that the Crown and Maori have a duty derived from the Treaty of Waitangi to take all reasonable steps to enable the survival of Maori as a living language. Thus, the Maori Language Act was passed in 1987, which also made Maori an official language of New Zealand.

101. The Maori Language Act 1987 set up a public sector agency *Te Taura Whiri i te Reo Maori*, the Maori Language Commission. *Te Taura Whiri* promotes the Maori language and contributes to its growth and maintenance as a living, widely-used means of communication. It has given a strong focus to raising the standard of the Maori language. It has also maintained its

statutory function of providing for the certification of interpreters and translators of the Maori language. It has continued its role of developing new terminology and has published some 5,500 new words, many of them on themes such as science, mathematics and health, to meet the needs of Maori-language immersion schools, public sector agencies, sporting, broadcasting and community groups. *Te Taura Whiri* has published an all-Maori dictionary *He Kohinga Kiwaha*, which involved collecting Maori idiom and colloquial expressions from around the country and explaining and exemplifying their use.

102. Section 4 of the Maori Language Act 1987 details the rights of any member or participant within a court or tribunal to speak Maori in legal proceedings regardless of whether they can understand English. The High Court and District Court each have their own rules allowing Maori to have documents translated into the Maori language. The New Zealand Parliament has provided within its Standing Orders that a Member may address the Speaker in English or in Maori.

103. The Government has clarified the intention of the Act in declaring Maori language as an official language by directing all public service departments to have Maori-language policies in place by July 2000 and then progressively to implement them. Furthermore, a Maori Language Survey begun in 1995 led to the development of a national Maori Language Strategy, intended to ensure in the first place that public sector agencies, for example education, broadcasting and public sector services, supported the process actively.[11]

Health

104. New Zealand's last report outlined substantial changes in the New Zealand health sector. Further important change occurred in the period covered in the present report. Under the coalition Government formed after the October 1996 general election the separation between the purchaser of health care and the provider of health services was retained but from July 1997 the four Regional Health Authorities were amalgamated into a single purchasing body, the Transitional Health Authority (THA). This was done in order to eliminate duplication, reduce transaction costs and promote consistency of approach. In July 1998 the Health Funding Authority (HFA) replaced the THA, while Crown Health Enterprises became Hospital and Health Services, run as not-for-profit companies.

105. The full enjoyment of human potential depends on health, and on access to health services. As in other areas of Government social services, an underlying concern has been to maintain protection for the most vulnerable groups in society. Maori in particular, and Pacific people, are likely to have a sense that health systems are there for them only if they are bedded in consultation and community input, especially in matters of cultural practice.

106. While the health status of Maori continues to improve it is still unsatisfactory relative to most of the remainder of the population. Statistical information on Maori health contained in New Zealand's previous reports remains largely relevant. In 1995-97 life expectancy at birth for the whole population of New Zealand was 74.3 years for males and 79.6 years for females. This represents gains of 1.4 years for males and 0.9 years for females over the previously reported 1990-92 levels. For Maori, during the period 1995-97, life expectancy at birth was more than eight years lower than non-Maori across both genders (67.2 for Maori males and 71.6

for Maori females compared with 75.3 years for non-Maori males and 80.6 years for non-Maori females). As changes took place in September 1995 in the recording of ethnicity information on mortality registration forms it is not possible to establish whether improvements in life expectancy for Maori have continued throughout the 1990s.

107. New Zealand's total infant mortality rate is relatively high compared with others in the OECD group of countries and a particular cause for concern is the relatively high rate of infant mortality for Maori compared with non-Maori. Infant mortality rates for the population as a whole declined by 66 per cent over the decade 1988-1997. By 1996 the rate stood at 7.3 deaths per 1,000 live births and since then the rate has begun to fall sharply, to 6.7 per 1,000 in 1997 and 5.7 per 1,000 in 1998. In 1996 Maori infants were more than twice as likely to die in proportion to the rest of the population, with 11.6 deaths per 1,000 live births compared to 5.3 deaths per 1,000 for non-Maori. However, data for 1997 and 1998 indicate significant declines in Maori infant mortality rates, to 10.7 per 1,000 in 1997 and 9.5 per 1,000 in 1998.

108. Sudden infant death syndrome (SIDS) accounted for 33 per cent of Maori infant deaths in 1997, compared with 21 per cent for the general population. The continuing decline of SIDS deaths gives cause for optimism. This is one indicator of the success of the national cot death prevention programme, which is aimed at reducing the prevalence of four identified risk factors associated with SIDS.

109. Statistics confirm that priority still needs to be placed on Maori health care. From 1 August 1997 the Transitional Health Authority/Health Funding Authority (THA/HFA) has been required to purchase services that are appropriate and accessible to Maori. Statistical data on Maori health is factored into the population-based funding formula for health services so that the higher health needs of Maori are funded adequately. The THA/HFA is also required to commit itself to the development and delivery of culturally effective services as an integral part of all health and disability services. This is recognized as a Maori right under the Treaty of Waitangi relationship.

110. Achieving gains for Maori health needs a mix of strategies. These range from community development initiatives, consultation strategies, growth in Maori-provided services, and partnership arrangements between *iwi*/Maori organizations and the THA/HFA, to the identification of specific resources for Maori health development and the assurance of cultural safety in health practices and procedures. Some of these are described briefly below. The Maori Health Commission set up in 1997 and the Maori Provider Development Scheme are among the approaches adopted.

111. Although some health services to Maori, including health promotion and preventative services, are provided by "mainstream" service providers, there are over 230[12] Maori providers who are contracted to deliver a range of services to their community. An example of a reform opportunity created and taken up by Maori is that of *Te Raukura Hauora o Tainui*, a comprehensive primary health care service in the Waikato and South Auckland areas managed wholly by the tribal groups of those areas.

112. The Consumer Complaints Services (set up in 1997) which enable people to make complaints about services and have them heard, provide processes such as *whanau hui* (extended family meetings). Interpreters may also be provided to meet the special needs of individuals such as *kaumatua* (elders).

113. A process of consultation between the Public Health Commission (subsequently merged into the Ministry of Health) and Maori successfully led to "*He Matariki*: A Strategic Plan for Maori Public Health" (1995). This set Maori public health goals for the Ministry, to be used as a framework in order to achieve advances in addressing particular issues of importance to Maori. Work linked to these goals has aimed to develop a "by Maori for Maori" focus as the means to contribute to long term, sustainable improvements in Maori health. Target areas in public health include: fat intake reduction, regular exercise, immunization, sudden infant death syndrome (SIDS), hearing loss in *tamariki* (children) under 5, promoting mental health, reducing suicides amongst *rangatahi* (teenagers), reducing deaths and disability of *pakeke/matua* (adults or parents) through cancers, and improving and maintaining social support for *kaumatua*.

114. Encouraging active and effective participation by Maori is a key approach to Maori health improvement. This applies especially in health promotion, early intervention and community-delivered primary health care. As a step towards greater Maori involvement, the Public Health Unit of the Ministry published in 1996 "*He Taitai i te Ara*, Guidelines for Developing Maori Health Resources". The aim of the manual is to assist in the development and production of effective health resources that are accessible and culturally appropriate to Maori.

115. New Zealand's rapidly growing Pacific population also face particular health problems. Statistically this group generally has a health status lying between Maori and non-Maori. Hospitalization rates are above the national average for both sexes. Pacific communities have the highest abortion rates and Pacific children feature highly in vaccine-preventable diseases due to lower immunization rates. Significant inequalities in the delivery of health services to Pacific peoples and a communications/information gap between policy makers and providers and the community have been identified. Since 1996 there has been a requirement that health services to Pacific Islands people are culturally appropriate. Statistical data are used to trigger increased health and disability support funding for the needs of this group. Pacific communities have been drawn into the development of a strategic plan to improve the planning (including issues of access and choice), implementation and monitoring of service delivery to their communities. Coordination amongst providers of all services to Pacific peoples has been strengthened so that health services are better equipped to handle the linguistic, cultural, social and religious differences amongst the various Pacific countries represented in the overall community.

116. Migrants entering New Zealand must either have permanent residence, or have an entry permit that allows a stay of two years or more to be eligible for publicly funded health and disability services on the same basis as residents. Refugees were confirmed under a 1997 Eligibility Directive to be eligible for these services on the same basis as residents. As previously reported, the main health concerns of refugees as a group are tuberculosis, hepatitis B and sexually transmitted diseases. Many also suffer from depression and post trauma stress. Medical examination of quota refugees on arrival includes limited treatment and referral to health specialists. Refugee-specific mental health counselling services for survivors of torture

and trauma are available and some refugee-specific community health education programmes (e.g. on tuberculosis, HIV/AIDS) are funded. Dislocation from family is a major mental health issue for refugee families. Work is under way to address this and other health and mental health issues for refugees.

117. Language problems can complicate communication between the patient and the health professional and health responses can face complex cultural questions such as issues regarding the donation of body organs in the event of death. The Consumer Complaints Services referred to in paragraph 112 above must also serve this community in terms of transparency (e.g. interpreters must be provided where needed) and sensitivity to individual needs.

Housing

118. The right to adequate housing is a fundamental expectation in New Zealand society. The last report outlined the major changes in the policies which the Government had put in place to assist those who suffer socio-economic disadvantage. These changes divided responsibilities - policy, management of the 59,000 units of State rental stock, special home lending programmes and financial assistance - amongst four State sector agencies. The key objectives in these Government strategies were appropriate targeting, fairness and consistency of treatment, improved choice and the encouragement of self-reliance. These policies remained in place through the reporting period until the general election in November 1996, the outcome of which presaged significant policy change.

119. The Residential Tenancies Act 1986 (RTA) declares that any discrimination in tenancy agreement matters which contravenes the Human Rights Act 1993 is unlawful. Complaints may be taken up with either the Tenancy Tribunal under the RTA, or under the Human Rights Act, in the first instance through the Human Rights Office's Complaints Division. During the review period the Tenancy Tribunal received 33 applications on the grounds of discrimination: these figures do not distinguish between racial and other categories of discrimination.

120. A 1993 review by the Department of Justice found that New Zealand's anti-discrimination legislation was as comprehensive as any that existed in other countries, and would be further strengthened by the changes in the new Human Rights Act. To assess the effectiveness of the legislative provisions, a survey was undertaken in the same year on discrimination in the rental accommodation market. While awareness of the legislative protections was disappointingly low, a positive finding was a very low level of concern among renters (6 per cent) about discrimination in housing on racial grounds, while a lower still (4 per cent) number of landlords said they took account of racial considerations in choosing tenants. To address the issue of awareness, measures were taken to publicize the anti-discrimination legislation, to clarify the proper avenues of recourse for those who believe they have been discriminated against, and to reduce public reluctance to make complaints about housing discrimination.

121. Obligations arising from the Treaty of Waitangi relationship between the Crown and Maori require the Ministry of Housing to pay particular attention to the needs of Maori. A number of factors adversely affect Maori access to housing, such as income, unemployment,

larger than average household sizes, and the relatively youthful age structure of the Maori population. Home ownership is lower amongst Maori than among the general population.

122. Assistance to Maori during the reporting period was delivered through a range of mechanisms. Because of their relatively low average per capita income, Maori are likely to call more heavily than the general population on the Accommodation Supplement. (This is the key support to bridge the gap between income and accommodation costs, whether as renters, boarders or home owners, available to anyone who qualifies for State assistance.) Rental accommodation under the management of Te Puni Kokiri (the Ministry for Maori Development) was sold to local *iwi* authorities. Housing loans were provided in a variety of ways. Besides assistance through mainstream agencies, loan sources included the Low Deposit Rural Lending Pilot Programme (begun in 1995 and scheduled to run to mid-2001) which provides loan finance to low-income rural people, especially Maori, to improve their standard of housing. There are also loans for multiple-owned Maori land, and a Group Self Build Programme. The latter was set up in 1998 as a pilot programme to assist groups of motivated low-income households, Maori in particular, to work together to build their own homes under appropriate supervision.

123. In 1999 a report was issued on the housing status of Pacific peoples in New Zealand. Previous data had shown this group to be more likely to rent than to own their own homes, and more likely to be in state-owned than private sector rental accommodation.

The Children, Young Persons and their Families Act 1989

124. The Children, Young Persons and their Families Act 1989 provides for culturally appropriate services for children, young people and their families, with particular recognition of the special needs of Maori, Pacific Islands and other ethnic minorities. Interim Standards of Approval for Pacific Islands Cultural Social Services were developed and approved in 1998. These were prepared in consultation with Pacific providers and communities. The Standards of Approval for *Iwi* Social Services are operating and *Iwi*/Maori providers of social services have been approved to provide a range of services to Maori children, young people and their families. There has been greater effort to find more in-family placements for children and youth in care rather than placements with outside caregivers.

Social services

125. Income support is the key safety net for people unable, for whatever reason, to provide adequately through their own resources for a basic standard of living. This service was provided by the New Zealand Income Support Service until late 1998 when it was consolidated with other agencies (see para. 76) to form the Department of Work and Income (DWI). Maori and Pacific Islands people are a primary client group for this service, for reasons outlined earlier in this report. A review of the service to Maori was conducted during the review period with the goal of achieving a reduction of socio-economic disparities between Maori and non-Maori.

Criminal justice system

Courts

126. In New Zealand, everyone charged with an offence has a right, under section 24 (g) of the New Zealand Bill of Rights 1990, to language interpretation if needed. In practice this includes the use of indigenous language, having documents served and filed in Maori. There is also to be respect by the courts of the different traditions of ethnic groups who use the system. The Criminal Justice Act 1985 provides for a convicted person, and for families, *whanau* and community leaders to speak to the Court about the offender's cultural or ethnic background, which may be taken into account during sentencing. Publicity was given to this provision in late 1996 with the release of a leaflet in English, Maori, Cook Island Maori, Tongan and Samoan. Research was also commenced in 1999 into how the use of this provision could be increased.

127. Two areas of possible discrimination against ethnic groups within New Zealand merit attention. Juries are selected without bias. However, Maori are under-represented on the electoral roll, which is the basis for selection on juries. The second factor that may affect potential jurors is that because of their ethnic or national origins many do not have the "good understanding" of English specified on the jury summons form.

Programmes for prison inmates and addressing the problem of re-offending

128. In New Zealand Maori continue to be overrepresented as offenders and victims in the criminal justice system. Given forecast changes in the New Zealand population, and if current conviction and sentencing rates continue, by the year 2013 a further 1,850 Maori would be imprisoned. A further 5,470 Maori would receive community-based sentences. By contrast, the number of Europeans and other ethnic groups in custodial and community-based sentences would decline.

129. The magnitude of the problem of its nature and causes set Maori offending apart from other areas of concern in the development of the Government's wider responses to crime strategy. It requires a coordinated approach at the policy level across justice, social, economic and cultural organizations. There is consequently increased interdepartmental work and cooperation between government agencies. Consultation, too, with Maori and the incorporation of the views of Maori communities is important at all stages in the criminal justice process. Justice sector agencies are also attempting to adapt the policy development process to include Maori and Pacific peoples who may need to work with their people in the criminal justice sector. This enables culturally appropriate input into new initiatives. This cooperative approach between the justice sector agencies and New Zealand communities seeks to break the cycle of criminal offending and re-offending.

130. An example of the inclusion of Maori input is the 1999 budget increases in funding for the Mahi Tahi Trust to actively recruit and train Maori professionals and service providers. Other measures to manage Maori offenders and reduce re-offending include the provision of specific *Tikanga Maori* (Maori Protocols) programmes for use in prisons and community corrections. These are programmes that build on Maori philosophy, values, knowledge and

practices to change the thinking and behaviour of Maori offenders. Another initiative is the setting up of Maori Focus Units in prisons to cater specifically for Maori offenders, with the third unit opened during 1999/2000. In 1998-99[13] work began on a major development aimed at reducing re-offending. This Integrated Offender Management project includes a number of tools and instruments to identify the aspects of criminogenic needs (i.e. the needs that lead to an individual's offending) linked to Maori culture. Criminal associates, for example, particularly if the associate was *whanau* could be one such need, given the Maori cultural obligations associated with *whanau*. The use of the Maori Cultural Related Needs index, which is one of the tools, makes it possible to provide culturally specific interventions.

131. Youth justice areas are also a priority for the Government. Programmes and interventions are currently being trailed and provided which have a special focus on Maori. These include Family Start, the Wraparound Service pilot (Te Whanau O Waipareira Trust), school programmes and the development of *Iwi* Social Services.

132. Pacific Peoples, too, are overrepresented within the criminal justice system especially in violent crimes. Because of the young democratic makeup of and increase in the Pacific population in New Zealand, the statistics are projected to worsen. Using the same model and time frame as for Maori in the preceding paragraph, there could be a further 450 Pacific people in prison by 2013, and a further 1,660 receiving community-based sentences. The Government's approach to Pacific peoples' offending involves processes that recognize the diversity and uniqueness of the many Pacific population groups. The Government priority for Pacific peoples includes the development of new initiatives and pilot programmes in Pacific communities similarly taking account, as appropriate, of cultural considerations.

133. Setting aside Maori, Pacific Peoples and Europeans, other ethnic groups comprise only 1 per cent of sentenced inmates, with declines forecast in both conviction and sentencing rates. Resources have accordingly been focused on other priority areas rather than on rehabilitative and reintegrative programmes for these ethnic groups. Non-English speakers in prisons are able to call on translation service support, and if they are foreign nationals, have the normal consular contact rights.

Article 3

A. Information on the legislative, judicial, administrative or other measures which give effect to the condemnation of racial segregation and apartheid and to the undertaking to prevent, prohibit and eradicate all practices of this nature in territories under the jurisdiction of the reporting State

B. Information on the status of diplomatic, economic and other relations between the reporting State and the racist regime of Southern Africa, as requested by the Committee in its general recommendation III of 18 August 1972 and decision 2 (XI) of 7 April 1975

134. As a member of both the United Nations and the Commonwealth, New Zealand's relations with South Africa reflected the major changes that were made possible by the dismantling of the system of apartheid in that country. New Zealand joined the Commonwealth

in lifting all trade, investment and financial sanctions against South Africa in 1993; and welcomed South Africa back into the United Nations and the Commonwealth after the holding of democratic elections there in 1994. New Zealand made a significant contribution to the preparation and monitoring of those elections.

135. Full diplomatic relations were established with South Africa for the first time on 19 January 1994, with the reciprocal accreditation of representatives in Harare and Canberra. New Zealand appointed an honorary consul in Cape Town in January 1995, and established an embassy in Pretoria in 1996, thereby transferring its diplomatic accreditation from Harare. Heads of Government visits have been exchanged, that of South Africa in the context of the Commonwealth Heads of Government meeting held in New Zealand in 1995.

136. Since normalization, bilateral trade has expanded encouragingly. A modest New Zealand programme of Overseas Development Assistance is in place, focused on educational programmes in the Eastern Cape to help improve the position of groups economically and socially deprived during the apartheid era. The inaugural meeting of the New Zealand/South Africa Bilateral Relations Commission was held in Pretoria in late 1998, and dealt with a number of issues including trade and closer cultural ties. The New Zealand Human Rights Commission has maintained informal contact with its South African counterpart since the latter was established in 1996. Commissioners and staff from the South African Human Rights Commission regularly attend meetings of the Asia-Pacific Forum of National Human Rights Institutions which from its inception in 1996 has been coordinated by the New Zealand Commission. New Zealand and South Africa also share interests and cooperate in many international organizations.

Article 4

A. Information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 4 of the Convention, in particular measures taken to give effect to the undertaking to adopt immediate and positive measures designed to eradicate all incitements to, or acts of, racial discrimination

1. Measures taken to declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof

137. As outlined in New Zealand's last report, section 61 of the Human Rights Act 1993 prohibits the promotion of racial disharmony. Under section 61 (1) it is unlawful to publish, distribute or broadcast matter, or use words in a public place which are threatening, abusive or insulting. In addition, the matter or words complained of must be likely to excite hostility against or bring into contempt any group on the grounds of colour, race, ethnic or national origin. The Race Relations Office receives a substantial number of complaints under section 61. During the review period one large group arose from media situations, such as remarks by radio talk

show hosts, coverage of election campaigns in which immigration was a central issue, or local response to overseas conflicts, such as those in the former Yugoslavia. Others revealed instances of offensive racial material being circulated by mail, facsimile, e-mail, and increasingly, on Internet web sites. The Conciliator successfully invoked the provisions of section 61 against a group fostering anti-immigration sentiment in late 1995.

138. Section 61 (2) provides that media reports are not unlawful under section 61 (1) if the report accurately conveys the intention of the person who published or distributed the matter or broadcast or used the words. The Conciliator successfully invoked the provisions of section 61 against a group fostering anti-immigrant sentiment in late 1995.

139. Under section 131 of the Human Rights Act it is an offence to incite racial disharmony. This offence applies to both individuals and groups. Section 134 of the Act makes it an offence to refuse any person access to a public place or public facilities on the grounds of colour, race, ethnic or national origins, religious belief or ethical belief. The Attorney-General's consent is required to institute a prosecution under these sections. These provisions are rarely invoked. In the reporting period the Conciliator considered invoking section 131 in respect of complaints on the emergence of well-publicized fascist and neo-Nazi groups which were promoting an ideology of "white superiority", when there was also an increased incidence of attack on migrants of colour. The groups were, however, dispersed.

140. Section 63 of the Human Rights Act 1993 outlaws racial harassment in all areas where racial discrimination is proscribed by law. Most harassment complaints received relate to employment.

141. In 1996 the Conciliator initiated a public campaign on racism which succeeded in increasing public discussion about the issues and public condemnation of racist attacks.

142. Further information on the number and nature of complaints dealt with by the Race Relations Office during the period under review is provided in the report under articles 5 and 6 below.

2. Measures taken to give effect to the undertaking to declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and to recognize participation in such organizations or activities as an offence punishable by law

143. The comments in New Zealand's previous reports remain applicable. The relevant provisions of the Race Relations Act 1991 and the Human Rights Commission Act 1977 were carried over into the Human Rights Act 1993.

3. Measures taken to give effect to the undertaking not to permit public authorities or public institutions, national or local, to promote or incite racial discrimination

144. The Human Rights Act 1993 is binding on the Crown, local authorities public institutions and non-governmental and business organizations, as well as groups and individuals. However, section 151 (1) of the Human Rights Act states that nothing in the Act limits or affects the provisions of any other Act or regulation currently in force in New Zealand. At the time of enactment in 1993, the Human Rights Act provided for the expiry of section 151 on 31 December 1999. This date was extended to 31 December 2001 in the Human Rights Amendment Act 1999.

B. Information on appropriate measures taken to give effect to General Recommendation I of 24 February 1972, by which the Committee recommended that the States parties whose legislation was deficient in respect of their implementation of article 4 should consider, in accordance with their national legislative procedures, the question of supplementing their legislation with provisions conforming to the requirements of article 4 (a) and (b) of the Convention

145. The Committee's concluding observations on New Zealand's last report (para. 21) invit·d New Zealand to consider undertaking further measures with respect to the implementation of article 4, paragraph (b), of the Convention.

146. Sections 61 and 63 of the Human Rights Act 1993, which deal with racial disharmony, sexual harassment and racial harassment, contain prohibitions which apply to "any person". As a matter of statutory interpretation (via the Acts Interpretation Act 1924 and its replacement the Interpretation Act 1999), the word "person" refers to groups and organizations as well as to individuals. The Human Rights Act does not prohibit the establishment of organizations per se. Nonetheless under sections 61 and 63 it is unlawful for any organization to publish or distribute racist material or to engage in racist conduct or harassment. Further, any individual or organization can be charged under section 131 of the Act with the offence of inciting racial disharmony. Organizations cannot, therefore, lawfully promote racist aims. Section 131 of the Human Rights Act corresponds with section 25 of the predecessor Race Relations Act 1971. When the 1971 Act was under consideration, the view was taken that section 25 of that Act which corresponds to section 131 of the Human Rights Act satisfactorily implemented the obligations in respect of the Convention's Article 4, paragraph (b).

C. Information in response to decision 3 (VII) adopted by the Committee on 4 May 1973

147. The specific penal internal legislation designed to implement the provisions of article 4, paragraphs (a) and (b) is, for the period under review, section 131 of the Human Rights Act 1993.

Article 5

Information on the legislative, judicial, administrative or other measures which give effect to the provision of article 5 of the Convention; in particular, measures taken to prohibit racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law notably in the enjoyment of the rights enumerated in paragraphs (a) to (f) of article 5 of the Convention

148. For information concerning the legislative, judicial, administrative and other measures adopted by New Zealand, reference should be made to New Zealand's first and third periodic reports and to the relevant parts of this Report under article 2. The Committee is also referred to reports submitted by New Zealand as a State Party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The Human Rights Act 1993 maintains in full the provisions of the Race Relations Act 1971 and the Human Rights Commissions Act 1977 relevant to the provisions of article 5.

The Electoral Act 1993: Maori representation

149. In its concluding observations on New Zealand's last report (para. 20) the Committee, in the context of its interest in the Crown/Maori relationship, requested further information on the Electoral Act 1993 which was described in that report. It will be noted that the 1996 general election, held after the review of the last report, was the first to be held under the mixed member proportional (MMP) system put in place by that Act.

150. Under MMP each voter casts two votes at a general election. One is for a specific candidate to hold the seat for the general or Maori electorate in which the voter is registered. (At the 1996 general election there were 60 general and 5 Maori seats; at the 1999 general election the figures were 61 and 6. This is explained further below.) These seats are won on simple majority, and are not transferable to other candidates in the same party. The second vote is given to any party of the voter's choice. It is this party vote that determines each political party's proportionate share of all parliamentary seats. Subject to the proviso that a party must win either one general electorate seat or Maori seat, or 5 per cent of all the party votes cast, list seats are added to each party's electorate seats to reach its proportionate share of the total seats in Parliament. These party seats are allocated to candidates in order according to their place on their party's "lists" which are settled and published before the election.

151. Material explaining the MMP system was produced in 10 languages (including English) in 1996 and in seven (including English) in 1999 and distributed very widely. Particular effort has been made to implement specific education campaigns for both Maori and Pacific Islands communities.

152. Following the extensive consultation on the draft legislation for electoral reform (referred to in the last report), the final form of the Electoral Act continued to provide for separate Maori representation. Maori retain the option of enrolling to vote on the Maori electoral roll or the

general electorate roll. This choice is exercised both at initial enrolment (at age 18) and at five-year intervals by means of a "Maori option period" following the national census. The option asks all enrolled Maori voters to identify their choice of roll. Under the former "first past the post" electoral system the number of Maori seats was fixed at four. Under MMP the number is not fixed but is determined at the end of the option period by a formula based on the ratio of Maori enrolments opting for each of the two rolls. It could accordingly increase or decrease. A special Maori option held in 1994 calculated the number of Maori seats in the first MMP Parliament. This was set at five.

153. The conduct of the Maori option in 1994 was challenged by three Maori organizations before the Waitangi Tribunal and the Courts. While the Government was found to have conducted the Maori option properly, it has responded to recommendations for greater publicity about the option and more time for Maori to consider the choices. Extensive consultations were conducted on how to implement the Maori option. Through an amendment to the Electoral Act, the Maori option period was increased from two to four months. The 1997 four-month Maori option resulted in both new enrolments, and in moves in both directions between rolls. The preponderant move was towards the Maori roll. The new ratio set the number of Maori seats for the 1999 general election at six. If all Maori chose to register on the Maori roll they could be entitled to up to 13 seats. At the same time it remains possible, and certainly does occur, that Maori will be elected to Parliament by standing for a general or list seat. Following the 1999 general election there were 16 members of Parliament of Maori descent, of whom nine held electorate seats, and seven list seats.

154. In respect of other ethnic groups, three Pacific Island MPs and one Asian MP were elected in 1999. Amongst the political parties registered with the Electoral Commission to contest each general election as it arises are invariably a number specifically representing Maori or other ethnic groups.

Employment

155. In the year 1996/97 the Race Relations Office received 49 complaints in relation to employment - 9 per cent of total complaints. In the following two years the figures were 88 (19 per cent of total complaints) and 101 (15 per cent of total complaints). The increase in the number of complaints may be attributed in part to the increase in the number of new immigrants (including refugees) seeking work. Many of those who laid complaints believed that their inability to gain employment was because of discrimination on the basis of their race or country of origin. In part, too, the increases reflected dissatisfaction amongst non-Maori with the initiative taken to employ greater numbers of Maori in the public sector. Employment-related complaints consistently rated as one of the four biggest categories of complaints in the review period: but it was not the largest category.

Education

156. The Office of the Race Relations Conciliator investigated a complaint of racism against the Ministry of Education's second draft national curriculum statement on social studies. Social studies includes teaching issues relating to culture and heritage and is a compulsory subject

taught at all levels of compulsory education. The Office did not find substance in the complaint but assisted the Ministry in designing a new draft that addressed concerns that the Race Relations Conciliator had expressed about the original framework for teaching social studies.

Immigration

157. An update was provided in New Zealand's last report, with particular reference to changes arising from the Immigration Amendment Act 1991. These changes were designed to attract skilled migrants in greater numbers from a wider catchment of countries, and have led to significantly greater numbers of migrants being approved from countries which, under previous immigration policies, would have been considered non-traditional sources, especially from Asia. In the total picture, the sources of migrants are now very diverse. In the 1999 calendar year, 37,250 people were approved for permanent residence from 147 countries. Permanent and long-term arrivals from Asia formed 39 per cent of the total. Provisions under which applications for residence permits (and also visas) are assessed include the exclusion, normally, of persons known to have engaged in activities that would, if they had been undertaken in New Zealand, have contravened sections 61/63 of the Human Rights Act 1993.

158. The last report also outlined the four broad categories for permanent immigration that derived from the Amendment Act 1991. These are the general skills, business, family and humanitarian categories. A number of policy changes took place in October 1995 and again in May and October 1998 to facilitate migrants' transition to the New Zealand labour market. They included changes to the English language provisions and higher points for applicants with trade and technical skills. Later a wider definition of previous work experience qualifying for points was included. These measures broadened the skills mix and countered a trend to a narrower occupational mix that the 1991 policy had originally produced. A review of the National Qualifications Framework included as one objective an improved recognition of quality international qualifications. Other changes ease conditions for foreign students to obtain permanent New Zealand residence. Conditions for the business category were also liberalized.

159. A further Immigration Amendment Act passed in 1999 contained provisions to streamline and strengthen immigration processes. The relevant paragraphs in relation to the Convention deal with the rights and obligations on people who overstay their permits to be in New Zealand, the introduction of a limited-purposes permit for people considered a marginal risk, and revised rights and obligations under the refugee status determination (see below).

160. In its last report New Zealand noted the concerns that had been expressed in some sectors of New Zealand society about the changed immigration policy and its possible potential to disrupt racial harmony. The Committee expressed interest in systems being implemented to improve data collection and evaluation and to provide more comprehensive information on the impact of immigration and the situation of immigrants to facilitate informed public dialogue on the Government's immigration policies.

161. In October 1997, the New Zealand Immigration Service (NZIS) implemented the worldwide Application Management System and its accompanying Management Information

System. These systems have greatly improved the availability of data on immigration flows and migrants. This information is primarily used in day-to-day operations, in the development of policy, and as an input to research.

162. The issue of information on the impact of immigration and migrant settlement outcomes is being addressed by the New Zealand Immigration Service (NZIS) through its research programme. Many of the research reports are already available on the NZIS web site. The longitudinal study will produce usable data from 2005. The studies will draw together important information on for example the links between people coming to New Zealand on a temporary basis and those subsequently granted permanent residence; and on the fiscal impacts of migrants compared with the native-born population. Settlement indicators and factors found to assist the settlement of migrants will also be addressed. A further survey, to be completed by 2007, will generate data to enable investigation into how outcomes and experiences vary between groups of migrants across different selection criteria and settlement factors. Information from the survey will be used to assess the net benefits of immigration and to improve immigration processes.

Refugees

163. The following information updates that provided in New Zealand's previous report concerning the number of refugees living in the country and the Government's resettlement policies.

164. Since 1944 New Zealand has assisted with crisis situations around the world by accepting refugees. The admission of refugees remains an ongoing humanitarian priority in New Zealand's immigration policy, occurring both under the Government's resettlement quota programme and under its procedures for the consideration of applications made for refugee status by individuals already in New Zealand. (The latter are covered in the following section.)

165. The refugee resettlement programme has been developed and refined over the years. With its system of volunteer support workers and close community involvement, the programme ensures that the inflow of refugees matches the availability of resources, and that settlement is achieved with relative ease. The quota programme, separately from the refugee status determinations, provides for an annual global intake of a maximum of 750 refugees (reduced from 800 in 1997 in light of the transfer of costs of refugee travel from the United Nations High Commissioner for Refugees to the New Zealand Government). Ministers may increase the annual intake if new refugee situations arise in a particular year. Within the annual quota, broad categories are set - for example, categories set by the UNHCR such as women at risk, medically disabled, and protection cases. Refugees are presented by the UNHCR according to internationally accepted guidelines that take account of physical and legal protection needs as well as family reunification.

166. The following table shows the number of refugees accepted for resettlement in New Zealand under the quota programme during the period July 1995 to the end of June 1999.

Table 4

Refugees accepted for resettlement

1995-96	780
1996-97	527[a]
1997-98	677
1998-99	726
Jul-Dec 1999	400

[a] The decrease in 1996-97 was because of delays in selecting refugees during a period of negotiations between the United Nations High Commissioner for Refugees (UNHCR) and the New Zealand Immigration Service regarding funding of refugees' travel.

167. Since the early 1990s New Zealand's focus for resettlement refugees has widened. In the review period significant numbers have come from Burundi, Afghanistan, Eritrea, Ethiopia, Iran, Iraq, Laos, Somalia, Sri Lanka, Sudan, Vietnam and Yugoslavia. Refugees who arrive under the resettlement programme are received for six weeks at the refugee reception centre based at Mangere, Auckland. Here the NZIS works in partnership with government and non-government organizations to implement a variety of programmes to assist refugees, as well as with the Ministry of Health (see para. 116). The Auckland University of Technology coordinates the English language and orientation programme for adults. It also provides childcare, special education support and primary and secondary classes which prepare students for New Zealand schools. The Refugees as Survivors Centre has a multidisciplinary team that provides a trauma counselling service as well as therapeutic activities for adults and children. The Refugee and Migrant Service, contracted by the NZIS, provides social services (including bilingual/cross-cultural workers) and coordinates the training of volunteer support workers to assist refugees with ongoing settlement needs and with access to mainstream services.

168. Administration of the Special Tenancies Policy is in the hands of the Crown Company, Housing New Zealand. The policy allows welfare and community organizations to be allocated tenancies in order to assist groups that may be disadvantaged in the housing market, including newly-arrived refugees.

169. Since the end of World War II, more than 20,000 refugees and displaced persons have settled in New Zealand without any significant negative impact on racial harmony. However with refugees now coming from an increasingly diverse range of national, religious and ethnic backgrounds, the Government recognises an element of risk to social harmony. The orientation for refugees accordingly includes familiarization with the terms of the Human Rights Act 1993 and with the different social situations new arrivals can expect to experience.

Refugee status

170. New Zealand's procedures for determining refugee status were described in the last report. Under the Immigration Amendment Act 1999 referred to in paragraph 159 above, the refugee status determination system was put on a statutory basis. This included establishing the Refugee Status Appeals Authority in statute and setting out the rules for determinations in the

Immigration Act and regulations. In practical terms these measures ensured that while decisions of the Authority can, of course, be appealed, the refugee determination system itself is not open to challenge. A clear interface with immigration policy also now exists. The Refugee Convention is included in a schedule to the Act, section 129 (x) implementing the non-refoulement obligation under the Convention.

171. The number of applications for refugee status has increased in recent years, rising from 560 in 1996-97 to 2003 in 1998-99.[14] The approval rate at the initial determination was 100 in 1997-98, and 232 in 1998-99. Asylum seekers awaiting determination of their applications for refugee status are granted special Government assistance in the areas of employment, social welfare, education, health and legal aid for presentation of cases to the Refugee Status Appeal Authority.

Article 6

A. Information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 6 of the Convention, in particular, measures taken to assure to everyone within the jurisdiction of the reporting State effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to the Convention

172. Successive Race Relations Conciliators have regarded handling complaints and enquiries as one of the most important aspects of the work of their Office. Individuals and groups are thereby provided an avenue of legal redress regarding discrimination on grounds of colour, race and ethnic or national origins. The complaints function also acts as a barometer on race discrimination matters that concern New Zealanders. The entry into force of the Human Rights Act 1993 precipitated a substantial increase in the number of complaints to the Office of the Race Relations Conciliator. Much of this increase may be attributed to the completely new provisions relating to racial harassment.

173. Procedures for handling complaints under the Human Rights Act 1993 (previously these provisions were in the Race Relations Act 1971) have been described in New Zealand's earlier reports to the Committee. Since resources remain static, the model for processing complaints has been further refined to improve effectiveness and accessibility, and to reduce the time taken to resolve complaints. Increasingly, complaints are now resolved through a mediated settlement process. The focus is on taking a positive approach, and avoiding excessively legalistic procedures. By these means the numbers of complaints carried over from one reporting period to the next have declined even though overall numbers have continued to rise.

174. In the year ending 30 June 1996, the Office of the Race Relations Conciliator investigated a total of 497 complaints, with 14.5 per cent of these continuing at the year's end. In the year ending 30 June 1997, a total of 533 complaints were received. At the end of the year action was continuing on 20 per cent of cases. In the year ending June 1998 the Office

received 449 complaints of which 81.5 per cent were closed within the year. In the year ending June 1999, 658 complaints were received of which all but 49 were closed within the relevant period.

175. A second focus of the Conciliator is on education activities. Efficiencies in the complaints and enquiries system release some extra resource for this work. At the same time the Conciliator is mindful that such efficiencies should not be at the expense of reducing citizens' opportunities for redress if treated in a discriminatory fashion; and he considers that he has been able to achieve the appropriate balance between the two functions within resource constraints.

B. Measures taken to assure everyone the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination

176. There are no new developments to report in this area during the period under review.

C. Information on the practice and decisions of the courts and other judicial and administrative organs relating to cases of racial discrimination as defined under article 1 of the Convention

177. Detailed information on the practice and decisions of the Race Relations Conciliator is contained in the Reports of his Office for the years ending June 1996, through 1999 which were appended.

Article 7

Information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 7 of the Convention, to general recommendation V of 13 April 1977 and to decision 2 (XXV) of 17 March 1982, by which the Committee adopted its additional guidelines for the implementation of article 7

Education and teaching

178. Information on education programmes for Maori, Pacific peoples and members of other ethnic minorities appears in this report under article 2 (b). It notes the goal of ensuring that policy makers and administrators, educators and education providers, and communities themselves are involved in the effort to provide full opportunity for all young people to participate in the education options best suited to them, and to achieve a high standard of education whatever their race or socio-economic status. The Committee is also referred to New Zealand's last report, paragraphs 159-164, for an understanding of the economic and social changes in New Zealand which backdrop the effort to provide education curricula which are sensitive both to New Zealand's bicultural identity and to its multicultural composition. In the present report the ongoing development of curriculum which is responsive to Maori is noted. Information about programmes to promote respect for and observance of human rights through

education and publicity is also contained in New Zealand's Core Document. New Zealand's reports under the various International Human Rights Conventions and Covenants are available publicly.

Culture

179. For information relevant to this section the Committee is also referred to responses in the current report under articles 2 (a) and 2 (b). These cover the roles of official agencies and community institutions in the preservation and advancement of New Zealand's cultures and traditions in all their variety, and in the promotion of mutual acceptance.

180. The Ministry for Culture and Heritage[15] regularly provides advice in relation to cultural property rights and protection. Major issues in which it has been involved in the period under review included the preparation of draft legislation to ensure appropriate Maori ownership of newly found Maori artefacts, and input to the Protection of Maori *Taonga* (Treasures) Bill.[16] It has also been involved in the development of a national land-based cultural heritage strategy and in intellectual property rights issues with particular reference to Maori concerns. The transfer to the Ministry of responsibility for the Aotearoa Traditional Maori Performing Arts Society in 1998 and the Historic Places Trust, which includes the Maori Heritage Council, in 1999, further confirmed the cultural significance of these entities and enhanced the government's capacity for consistent policy advice on Maori cultural matters.

181. The Museum of New Zealand Te Papa Tongarewa Act 1992 states that the museum shall "have regard to the ethnic and cultural diversity of the people of New Zealand ... and endeavour to ensure both that the museum expresses and recognizes the *mana* and significance of Maori, European and other major traditions and cultural heritages, and that the Museum provides the means for every such culture to contribute effectively to the Museum as a statement of New Zealand's identity". Maori culture and tradition will always have a pre-eminent place. The position of Director, bicultural development, has been replaced with the more senior position of *Kaihautu* (leader, controller), which has equal standing with the chief executive. Te Papa is committed to the preservation and recognition of Maori culture in its operations. An important feature of the museum's new building, which opened in February 1998, is a *marae* for all New Zealanders, which has been incorporated as an integral part of the museum's design.

182. Creative New Zealand (Arts Council of New Zealand), which is the successor to the Queen Elizabeth II Arts Council referred to in the previous report, operates under the provisions of the Arts Council of New Zealand Toi Aotearoa Act 1994. Its structure includes two funding distribution boards. One, *Te Waka Toi*, is specifically for Maori art and the other, the Arts Board, is for the arts of all New Zealanders. Within the Arts Boards there is also a Pacific Islands Arts Committee. Overall, the structure of Creative New Zealand, established in legislation, provides for the autonomous assessment and funding of Maori work, thus better reflecting the important role of Maori in the arts of New Zealand than had been the case under previous legislation.

International Decade for the World's Indigenous People

183. Te Puni Kokiri, the Ministry of Maori Development, has lead responsibility for implementation of New Zealand's domestic programme of action for the Decade. A Decade Fund was established in 1996 to disseminate funds to community groups for projects promoting the objectives of the decade, including especially the promotion of the Maori language. At the commencement of the Decade a National Partnership Committee was established, comprising representatives of the Maori Congress, the New Zealand Maori Council, the New Zealand Maori Women's Welfare League, the Maori Language Commission (*Te Taura Whiri I Te Reo Maori*) and the Ministry itself. Grants amounting to NZ$ 1.5 million have been disbursed.

184. The focus of New Zealand's implementation of the first half of the Decade is *He Taonga Te Reo Maori* (the Maori Language is a Treasure). The focus for the remainder of the Decade will be *He Taonga Tuku Iho na Nga Tipuna* (the Treasures Handed Down by the Ancestors). Several prominent conferences, publications, recordings and language resources were funded as a means of raising the profile and awareness of the objectives of the Decade. *Te Puni Kokiri* is continuing a programme of translating major international instruments into *te Reo Maori* as a contribution to the Decade and is also leading the Government's review of its position on ILO Convention 169 (1989).

Information

185. Access to media in indigenous language is recognised as essential: it provides the "level of comfort" that allows communities to feel included as full and equal participants in civil society. The Government moreover has obligations under the Treaty of Waitangi to promote and protect the Maori language through broadcasting. To this end, a number of initiatives have been taken.

186. The Maori Broadcasting Agency, *Te Mangai Paho*, set up in 1993 to fund broadcasting services to promote Maori language and culture, continued its work through the period under review. *Te Mangai Paho* receives some NZ$ 30 million per annum for this purpose and funds 21 *iwi* radio stations. To qualify for funding, stations must meet a minimum requirement for Maori-language content and an additional incentive funding is provided for higher levels of language content. Monitoring by *Te Mangai Paho* indicates that the majority of *iwi* stations are broadcasting above the three hour base level. In addition, *Te Mangai Paho* funds two radio news services (*Ruia Mai* and *Mana* News) in Maori.

187. The Government has reserved radio spectrum nationwide for *iwi* stations in return for their broadcasting in the Maori language. In addition, UHF spectrum suitable for television broadcasting has been reserved for the provision of a dedicated nationwide Maori television channel, sufficient for technical developments in television broadcasting well into the future. In 1998, the Government approved the implementation of a Maori television channel, and provided substantial funding both for capital and operating costs and for costs of commissioning Maori television programmes. A Trust has been established to manage the implementation of the channel, and to manage the assets.

188. N.Z. On Air has a responsibility under the Broadcasting Act 1989 to ensure the range of broadcasts is available to provide for the interests of, inter alia, minorities in the community including ethnic minorities and to encourage a range of broadcasts that reflects the diverse religious and ethical beliefs of New Zealand. There are 11 Access Radio stations throughout New Zealand serving populations over 50,000. They provide ethnic and community groups with an opportunity for regular broadcasts in their own languages and of material specific to their interests. Funding comes from both N.Z. On Air and from sponsorship or from the purchase of air time by the programme makers. Two Pacific Island community radio stations, in Auckland and Wellington, receive funding in line with N.Z. On Air's policy of support for dedicated Pacific Island radio services in areas of greatest Pacific Island population.

189. N.Z. On Air provides funding for Maori mainstream programming that features Maori stories, issues and perspectives, that are substantially produced by Maori and are intended for a mainstream audience that includes Maori. N.Z. On Air also funds Radio New Zealand to deliver, inter alia, Maori language and culture programming on National Radio. In New Zealand music, N.Z. On Air ensures that the work of Maori songwriters and musicians is represented on screen (via music videos) and on disc (via syndicated radio shows).

190. The role of the media in race relations is the subject of comment in paragraphs 137-139 of this report.

Niue

191. Reference should be made to New Zealand's previous reports which explain the situation with respect to Niue. No amendments were made to the Niue Race Relations Ordinance 1972 in the period under review. No proceedings were instituted in Niue under the relevant legislation in the period under review.

Tokelau

192. Reference should be made to previous New Zealand reports for the situation with respect to Tokelau. For further background information, reference should be made to the report to Parliament of the Administrator of Tokelau. Those for 1996 to 1999 have been appended as Annex 4.*

193. The 1,500 people of Tokelau live in villages on three widely separated atolls. In each village/atoll the focus is on caring for individual members of the community in a communal manner. Due to the homogeneity of its people and the inclusiveness of Tokelauan society, racial discrimination is neither present, nor a matter of everyday concern.

194. Under a programme of constitutional devolution developed in discussions with Tokelau leaders in 1992, Tokelau with New Zealand's support, is developing the institutions and patterns of self-government that will enable its people to make a valid choice, under an act of self-determination, concerning their future political status. As a first step, that part of

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* Texts of the reports can be consulted in the files of the secretariat.

government which deals with the interests of all of Tokelau, rather than those of the villages individually, was returned to Tokelau in 1994. Since then work has continued in Tokelau on the content of a future Constitution suited to their cultural environment and consensual political process.

195. As part of the work on a Constitution, Tokelau is considering how it should express a commitment to basic human rights. Since the last century, Tokelauans have been familiar with these ideas as an important part of Christianity, but they are much less familiar with them in the context of law and government. As systems and personnel become better established, the new Government of Tokelau will be able to consider what steps Tokelau might take in light of the obligations accepted by New Zealand on its behalf under the Convention.

196. Tokelau is assured of the continuing interest and support of the New Zealand Government in its development of self-government, and of New Zealand's firm commitment to assisting Tokelau once an act of self-determination is made.

Notes

[1] A translation is given for the first use of each Maori term in this report. A glossary is included for assistance with second and subsequent references.

[2] The difference between figures for the "New Zealand European" group in these charts and the New Zealand core document is attributable to a methodological difference.

[3] It is linked with the International Convention on the Elimination of All Forms of Racial Discrimination through its long title: "to provide better protection of human rights in New Zealand in general accordance with United Nations Covenants or Conventions on Human Rights".

[4] Immediately following the reporting period the Employment Relations Act 2000 (ERA) replaced the ECA. Section 103 of the ERA continues to allow an employee to take a personal grievance if discriminated against in his/her employment on the grounds of discrimination including discrimination relating to sections 105 (e) colour, (f) race, and (g) ethnic or national origins. The ERA introduces a definition of racial harassment by the employer in section 109 that is based on section 63 of the Human Rights Act 1993. Sections 117 and 118 of the ERA make employers responsible for other employees' racial harassment of the employee. The complainant may choose to take an action for discrimination under the Human Rights Act or the ERA but not under both.

[5] Described in paragraphs 34-35 of the tenth and eleventh consolidated report.

[6] Imposed because of disease and lifted on evidence that disease was no longer present.

[7] These were subsequently formally elaborated in the Maori Education Strategy released in August 2000. At the time of writing there are 150 or so programmes and policies in place which aim to support these principles.

[8] *Nga toi* was completed in 2000 and is to be implemented in 2003; *hauora* is to be completed in 2001 and implemented in 2004.

[9] The web site *Te Kete Ipurangi* (the On-line Learning Centre) for which planning began at this time, came on-line in 2000. It provides teaching resources in both English and Maori on-line for primary and secondary schools.

[10] Officially launched by the Minister of Education in 2001 in the new Pasifika Education Plan.

[11] A further national survey on the health of the Maori language is to be conducted in mid-2001.

[12] This 1999 figure includes all Maori providers who are contracted to the Ministry of Health to deliver health outcomes to Maori.

[13] The design was completed in 1999/2000 and implementation started in 2000.

[14] Figures relate to financial years which run 1 July to 30 June.

[15] Until September 1999 the Ministry was known as the Ministry for Cultural Affairs.

[16] Te Puni Kokiri holds primary responsibility for this Bill.

List of annexes

Annex 1: Maynard Kristen. "*He tohu whakamarama*: a report on the interactions between local government and Maori organizations". Ministry for the Environment, 1998.

Annex 2: "Making education work for Maori", *Te Puni Kokiri*, Wellington, New Zealand, 1997.

Annex 3: Report of the Office of the Race Relations Conciliator. Annual report for the years ended 30 June 1996, 1997 and 1998.

Annex 4: Report of the Office of the Administrator of Tokelau. Annual report for the years ended 30 June 1996, 1997 and 1998.

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Healing the past, building a future: a guide to Treaty of Waitangi claims and direct negotiations with the Crown. Office of Treaty Settlements, Wellington, New Zealand, 1999.

New Zealand treaties and acts

Treaty of Waitangi, 1840

Human Rights Act 1993 (replacing the Race Relations Act 1971 and the Human Rights Commission Act 1977)

Human Rights Amendment Act 1999

New Zealand Bill of Rights Act 1990

Employment Contracts Act 1991

Treaty of Waitangi Act 1975

Treaty of Waitangi Amendment Act 1977

Te Ture Whenua Maori Act (Maori Land Act) 1993

Resource Management Act 1991

Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; and Deed of Settlement

Fisheries Act 1996

Ngai Tahu Claims Settlement Act 1998

Maori Language Act 1987

Residential Tenancies Act 1986

Children, Young Persons and Their Families Act 1989

Electoral Act 1993

Immigration Amendment Act 1999

Arts Council of New Zealand *Toi Aotearoa* Act 1994

Broadcasting Act 1989

Acts Interpretation Act 1924 (and Interpretation Act 1999)